



# Behaving Like Animals: Human Cruelty, Animal Suffering, and American Culture, 1900-present

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Behaving Like Animals: Human Cruelty, Animals Suffering, and American Culture, 1900-present

Abstract

What does it mean to be cruel to an animal? What does it mean for an animal to suffer? These are the questions embedded in the term “cruelty to animals,” which has seemed, at first glance, a well defined term in modern America, in so far as it has been codified in anti-cruelty statutes. Cruelty to animals has been a disputed notion, though. What some groups call cruel, others call business, science, culture, worship, and art. Contests over the humane treatment of animals have therefore been contests over history, ideology, culture, and knowledge in which a variety of social actors— animal scientists, cockfighters, filmmakers, FBI agents, members of Congress, members of PETA, and many, many others—try to decide which harms against animals and which forms of animal suffering are justifiable.

*Behaving Like Animals* examines these contests in the United States from the beginning of the twentieth century to the present, focusing on four practices that modern American animal advocates have labeled cruel: malicious animal abuse, cockfighting, intensive animal agriculture, and the harming of animals on film. These case studies broadly trace the contours of American attitudes toward human cruelty and animal suffering over the last century. They also trace the historical evolution of the ideas embedded in the term “cruelty to animals.” Cruelty to animals has been the structuring logic of animal advocacy for two centuries, and historians have followed its development through the nineteenth century as a constellation of ideas about human and animal natures, about cruelty and kindness, and about suffering and sentience—very old ideas rooted in western intellectual thought and given shape by nineteenth-century sentimental culture. *Behaving Like Animals*

follows this historical and intellectual thread into the twenty-first century, and reveals how these old ideas adapted to modern and evolving regimes of knowledge, science, and law, as they became thickly knotted in America's varied and transforming social, cultural, intellectual, political, and legal contexts. That process has had varied and far-reaching implications in modern American culture, structuring social relations among Americans while shaping understandings of the place of animals in American society. *Behaving Like Animals* tells this history.

## TABLE OF CONTENTS

Acknowledgments.....	v
Introduction:	
Cruelty to Animals: A History.....	1
1. Jeffrey Dahmer's Fiddlesticks:	
Human Cruelty, Crimes Against Animals, and the Threat to Kill.....	36
2. Cockfighter Nation:	
Cruelty, Culture, and the Making of Modern America.....	89
3. Happy Cows and Stressed Pigs:	
Intensive Farming and the Science of Animal Suffering.....	162
4. Animals Were Harmed:	
Censorship, Speech, and Animal Suffering on Film from Classical Hollywood to the Crush Act.....	216
Epilogue.....	280
Appendix.....	286
Bibliography.....	299

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# INTRODUCTION

## CRUELTY TO ANIMALS: A HISTORY

“How long have you participated in these pigeon shoots?”  
“Since when I was a kid.”  
“Don’t you think it’s cruel to the pigeons?”  
“Look you’re from the city. You don’t understand. This is how we enjoy ourselves. And besides, pigeons are dirty animals anyway and don’t deserve any better.”  
“But is it necessary to shoot and kill or wound them?”  
“It’s necessary for us.”  
“Why?”  
“It’s a tradition. We’ve been doing it for sixty years.”  
“Just because it’s a tradition doesn’t mean it’s right, does it? After all racism is a tradition.”  
“It’s different; these are pigeons. They’re dirty, like flying rats.”  
“If the birds are dirty, why do you let these young children handle the birds, especially when they’re bleeding?”  
“Well we think it’s okay. And it generates money for the town.”<sup>1</sup>

In 1933, the town of Hegins, Pennsylvania held its first annual Labor Day pigeon shoot. For over half a century after that, until 1999, the town gathered each year at Hegins Community Park to eat food, drink beer, sing the national anthem, and shoot pigeons. Between 9:00 a.m., when shooting routinely started, and dusk, over 8,000 pigeons were shot each year. Most were underfed and dehydrated by the time of the festivities and many of the birds had had their wings clipped to prevent full flight. Young boys called “trappers” released the birds from crates, which were equipped with electric shocks to propel unwilling birds outward. Townspeople shot the birds while the crowd cheered. Most birds were not killed right away. They fell to the ground wounded, so in between rounds, the trappers roamed the field gathering dead birds and killing those that were still alive. They employed a “variety of methods,” reported the Pennsylvania Supreme Court, such as “tearing the

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<sup>1</sup> Gary Francione, *Animals, Property, and the Law* (Philadelphia: Temple University Press, 1995), xv. This is the text of a conversation between Francione (a lawyer and advocate for animal rights) and a participant in the Hegins County pigeon shoot.

birds' heads from their bodies, throwing or smashing them against objects on the ground, crushing the birds by falling on them, and suffocating the birds by tossing them into a barrel filled with other dead and dying pigeons.”<sup>2</sup> While killing the birds, some trappers taunted the animal advocates that came year after year to protest the event.<sup>3</sup> In 1999, faced with mounting pressure from international animal advocacy groups and from the Pennsylvania Supreme Court, the shoot’s organizers called it off for good.

Gary Francione, a leading scholar of animal rights law, attended the Hegin County pigeon shoot for almost a decade. His main service was to represent the dozens of protestors arrested each year and arraigned before a local court accustomed to ruling that pigeons did not qualify as “animals” under Pennsylvania’s anti-cruelty statute.<sup>4</sup> One year, Francione had an illuminating conversation with a local shoot participant (reproduced above). Francione asked the man why he did not consider the shoot “cruel.” “Look,” the man said. “You’re from the city. You don’t understand.” He told Francione that the shoot was “tradition” and that it “generate[d] money for the town.” And he disagreed with Francione over the animal nature of a pigeon.<sup>5</sup> Those words were a reminder that Francione’s understanding of the pigeon shoot was not the only one. If his was one understanding of the event, there was another understanding, too (and perhaps several others). That understanding was not about human cruelty or animal suffering. It was about community, cultural traditions, local commerce, class, and the disconnect between urban and rural values. The conversation between Francione and the pigeon shooter—the kind of conversation that animates this dissertation—forces us to think about these understandings together, as part of a shared intellectual, cultural, and legal effort to answer the same set of questions: What does it mean to hurt

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<sup>2</sup> “Organizers of Annual Pigeon Shoot Cancel Event,” *Associated Press*, August 17, 1999

<sup>3</sup> Francione, *Animals, Property, and the Law*, xiii-xv.

<sup>4</sup> “Stop the Labor Day Pigeon Shoot,” *The New York Times*, September 16, 1986.

<sup>5</sup> Francione, *Animals, Property, and the Law*, xiii-xv.

an animal? What does it mean for an animal to hurt? What does it mean to be cruel? What does it mean to suffer?

These are questions embedded in the term “cruelty to animals”—a term that refers most directly to a criminal practice and legal category, but that also articulates a constellation of ideas with historical roots; that has long been invested with assumptions about human and animal natures; and that has been deployed in many contexts over time to make sense of how humans live with animals and of how humans live together. These questions about human cruelty and animal suffering have likely been asked in one form or another for as long as animals and humans have lived, worked, and died together, but they started being asked and answered with special urgency beginning in late-eighteenth-century when new social, intellectual, and cultural formations made cruelty and suffering legible experiences. When animal protective societies emerged and evolved in the course of the nineteenth century, the ideas about human cruelty and animal suffering embedded in the term “cruelty to animals” formed the structural logic for humane reformists who hoped to improve the lives of animals and for people trying to understand animals and themselves. It remains the structural logic today.

In the United States in the twenty-first century, animal cruelty seems, at first glance, to be a well-defined thing. As a legal category and criminal practice, it has been defined and codified in state anti-cruelty laws, the primary legal protections for the billions of animals that live and die on our farms, in our laboratories, in our wildernesses, on our streets, and in our homes. New York took the lead in protecting animals from cruel treatment in 1829, when it became the first state to protect animals as more than just property when it criminalized malicious abuse at the hands of the animal’s owner.<sup>6</sup> Other states followed, and, gradually, all fifty United States adopted anti-cruelty statutes,

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<sup>6</sup> See generally David S. Favre and Vivien Tsang, “The Development of Anti-Cruelty Laws During the 1800’s,” *Detroit College of Law Review* vol. 1993, no. 1 (1993).

limited though they have often been in scope and enforcement. Most statutes have read something like the present statute in Massachusetts, which decrees that a person is guilty of cruelty to animals if he or she, “overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal.”<sup>7</sup> A more or less straightforward piece of criminal law, yes. But determining what is or is not cruel in modern America has been as much a cultural, political, and scientific problem as it has been a legal one, and animal cruelty has been a malleable and disputed concept. What some groups call cruel, others call business, science, culture, worship, and art. Contests over animal cruelty have therefore been contests over history, ideology, culture, and knowledge, in which a variety of social actors—animal scientists, cockfighters, filmmakers, FBI agents, members of Congress, members of PETA, and many, many others—try to decide which harms against animals and which kinds of animal suffering are socially, commercially, scientifically, aesthetically, and legally justifiable.

*Behaving Like Animals* examines these contests over animals from the beginning of the twentieth century in the United States to the present, in the cases of four practices that modern American animal advocates have labeled cruel: malicious animal abuse, cockfighting, intensive animal agriculture, and the harming of animals on film. The structuring logic of these contests has remained a constellation of ideas about human cruelty and animal suffering that we call “cruelty to animals”—a constellation of ideas that emerged long ago in a different world and that has persisted into the twenty-first century with varied and far-reaching implications in American culture, where it has structured social relations among Americans as much as it has structured understandings of the place of animals in American society. Cruelty to animals: old ideas in a new world.

\* \* \*

To understand animal cruelty in modern America, it’s necessary to understand animal cruelty in

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<sup>7</sup> General Laws of Massachusetts: Cruelty – Consolidated Cruelty Statutes, MA ST 272 §77-95

history, and so I'll begin with a trip far back in time. For centuries "cruelty to animals" has been something of a two-sided coin. On one side have been ideas about humans and human nature—about what it means for a person to be cruel or kind to an animal, about how a person who is either cruel or kind might treat other people, about how human-animal relationships produce human-human relationships. On the other side of the coin have been ideas about animals—about whether they can perceive the world, about whether they can experience emotions like joy and fear, and about whether they feel mere physical pain or experience pain subjectively in the form of suffering. Human cruelty and animal suffering: two sides of the coin that is "cruelty to animals." These ideas are old indeed, and ones that evolved over many centuries. This long intellectual tradition has provided the structuring logic for the intellectual, cultural, and legal world of human-animal relations in the twentieth- and twenty-first-century United States. The sketch of that longer history below is necessarily done in broad strokes and spans centuries within paragraphs, but it is necessary to highlight the key ideas and voices that gave this structuring logic its shape.<sup>8</sup>

There is an old and influential belief in Christian and western thought that cruelty and kindness to animals are deeply meaningful human behaviors. Harming an animal reveals or cultivates cruelty in the person, cruelty that is likely to be directed at other people. Kindness to an animal, on the other hand, reveals or cultivates virtue, righteousness, and makes a person more likely to show kindness toward others. The Bible, a book not especially concerned with the suffering of animals, spoke of human cruelty and kindness to animals in just these terms. According to Proverbs: "a righteous man regardeth the life of his beast."<sup>9</sup> Thirteenth-century theologian Thomas Aquinas

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<sup>8</sup> For fuller accounts of this history, see Gerald Carson, who has traced the evolution of ideas about cruelty and kindness back to the Greeks in *Men, Beasts, and Gods: A History of Cruelty and Kindness to Animals* (New York: Charles Scribner's Sons, 1972). And for an excellent intellectual history of ideas about animal natures and human cruelty in early modern Europe, see Erica Fudge, *Brutal Reasoning: Animals, Rationality, and Humanity in Early Modern England* (Ithaca: Cornell University Press, 2006).

<sup>9</sup> Proverbs 12:10 King James Bible, quoted in Fudge, *Brutal Reasoning*, 73. See Fudge for a more comprehensive discussion of ideas about human cruelty during this period.

explained the scriptural justification for kindness to animals in *Summa Contra Gentiles*, in which he acknowledged that God had given humans total control over all of nature but he also pointed to the Bible's warnings about the personal and social implications of excessive cruelty toward animals. "[I]f any passages of Holy Writ seem to forbid us to be cruel to dumb animals," Aquinas wrote, explaining the paradox, "this is either to remove man's thoughts from being cruel to other men, and lest through being cruel to animals one become cruel to human beings."<sup>10</sup> These were enormously influential words. They would reverberate through public discourse surrounding human-animal relations. They still do.

Christian theologians in early modern period echoed Aquinas in emphasizing the dangers of cruelty and the benefits of kindness. Thomas Wilcox, for example, wrote in 1589, "hee is mercifull, if to beastes, much more to men." Peter Muffett, writing in 1592, put it similarly, "if he be so pitifull to his beast, much more is he mercifull to his seruants, his children, and his wife." And John Rawlinson, a clergyman and Principal of St. Edmund Hall, Oxford, said succinctly, in his sermon, *Mercy to a Beast* (1613): "Saue a beastes life, and saue a mans."<sup>11</sup> These and other Christian thinkers and theologians derived from the Bible an understanding of human dominion—that humans had no duties to animals and that "dumb beasts" existed to serve our interests—but they held a simultaneous belief that cruelty to animals revealed or conditioned a person to be hard-hearted, merciless, and socially dangerous. Animals were not *owed* good treatment, freedom from malicious abuse, or a quick and proper death, but being unkind to them was bad for the soul.

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<sup>10</sup> Thomas Aquinas, *Summa Contra Gentiles*, as quoted in Tom Regan and Peter Singer, eds. *Animal Rights and Human Obligations*. 2<sup>nd</sup> Ed. (Englewood Cliffs, NJ: Prentice Hall, 1989), 8-9; Carson, *Men, Beasts, and Gods*, 16. For information about these ideas in the context of meat eating, which some Christians in the middle ages considered to be bestializing, see Diane M. Batzell, "Strife Among the Table-Fellows: Conflicting Attitudes of Early and Medieval Christians Toward the Eating of Meat," *Journal of the American Academy of Religion*, vol. 65, no. 1 (1997): 73-99; and Joyce Salisbury, *The Beast Within: Animals in the Middle Ages* (London: Routledge, 1994).

<sup>11</sup> Fudge, *Brutal Reasoning*, 68-69.



Other iconic thinkers in the Western intellectual tradition made this case for kindness, which was part of a broader ethic of self-control that American philosopher Philip Hallie labeled in 1979 as the ethic of “inward government.”<sup>12</sup> John Locke and Immanuel Kant were two prominent voices. In *Some Thoughts on Education* (1692), Locke warned against cruelty for the same reasons that Aquinas and others had. For him, childhood was an especially important period of development and he was concerned after having frequently witnessed children torturing small animals. “For the custom of tormenting and killing of beasts,” he warned, “will, by degrees, harden their minds even towards men; and they who delight in the suffering and destruction of inferior creatures, will not be apt to be very compassionate or benign to those of their own kind.” He noted that English law already functioned under this logic, disqualifying all butchers from serving on juries.<sup>13</sup> Kant, too, found it telling that the UK did not allow butchers to sit on juries, as they were “accustomed to the sight of death and hardened.” Like Aquinas, Kant agreed that “so far as animals are concerned, we have no direct duties,” but he also agreed that people had an interest in treating them well. In *Lectures on Ethics* (1775-1780), Kant gave the example of a man shooting a dog that was no longer capable of serving his master. The man had no duties to that dog, “but his act is inhuman and damages in himself that humanity which it is his duty to show towards mankind. If he is not to stifle his human feelings, he must practice kindness towards animals,” he instructed, “for he who is cruel to animals becomes hard also in his dealing with men.” Although humankind had no *direct* duties to animals, he reasoned, “our duties toward animals, then, are indirect duties towards mankind.”<sup>14</sup>

Thinking about human nature also meant thinking about animal natures, and about their

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<sup>12</sup> Philip P. Hallie, *Lest Innocent Blood Be Shed: The Story of the Village of Le Chambon, and How Goodness Happened There* (1979; reprint, New York: Harper Collins, 1994), 277; Fudge, *Brutal Reasoning*, 68.

<sup>13</sup> John Locke, *Some Thoughts Concerning Education* (1692) Part VII, Section 116.

<sup>14</sup> Immanuel Kant, “Duties to Animals and Spirits,” in *Lectures on Ethics*, trans. Louis Infield (New York: Harper and Row, 1963), pp. 239-41.

abilities or inabilities to think, reason, and suffer. The men quoted above were influenced in their ideas about human and animal natures by the Great Chain of Being—the linear, hierarchical ranking of heaven and earth first imagined by the ancient Greeks, that was contested and re-imagined over time, and that long functioned as a dominant conception of natural order. At the top was God—perfect, omnipotent, outside the limits of time and space, etc. Below God were angelic spirits, which were accordingly ranked. Below God and the angels were humans, animals, and minerals. Animals were often ranked so that those nearest the top (lions and elephants) were considered closer to humankind than lower animals (lizards and insects). They had some awareness of the world and basic desires rooted in physical needs; there was therefore room in the Great Chain of Being for a concept of sentience—animal feeling, perceiving, consciousness, and suffering. But the division between human and animal was strictly drawn in many versions of the chain not on the line of sentience but on the line of reason. Animals lacked souls, language, and reason.<sup>15</sup> Their suffering, if they could suffer at all, was not the suffering of humankind. It was this tradition that Aquinas drew on when he explained in *Summa Theologica* that it was not a sin to kill an animal. “Dumb animals and plants are devoid of the life of reason whereby to set themselves in motion,” he explained; “they are moved, as it were by another, by a kind of natural impulse, a sign of which is that they are naturally enslaved and accommodated to the uses of others[.]”<sup>16</sup>

Many thinkers would accept this position, but there were competing voices over time—those who accepted the ethic of inward government that made cruelty to animals a threat to personal and social peace, but who also argued that animals could suffer and therefore deserved human kindness for reasons that went beyond human self-interest. Sixteenth-century French essayist

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<sup>15</sup> Arthur O. Lovejoy, *The Great Chain of Being: A Study in the History of an Idea* (Cambridge, MA: Harvard University Press, 1936).

<sup>16</sup> Fathers of the English Dominican Province, trans. *The Summa Theologica of St. Thomas Aquinas, Part II (Second Part)* (London: R. & T. Washbourne, Ltd., 1918), 197.

Michel de Montaigne was among the earliest and most influential of these voices. His essay, “Of Cruelty” (1580), left aside reason and language as unbridgeable divides between human and animals, and instead posited sentience, existence, and suffering as the keys to “some relationship between them and us, and some mutual obligation.” Montaigne’s animals were fellow beings, not objects or things in “Of Cruelty.” When he wrote, “I sympathize very tenderly with the afflictions of others,” he might have sounded as though his “sympathy” was still a form of inward government, but, vitally, this was a sympathy rooted in acknowledging the “afflictions of others” in the form of sentience and suffering.<sup>17</sup>

Montaigne’s arguments about animal suffering would be influential, but so would a claim made several decades after “Of Cruelty”: when René Descartes famously described animals as “machines” in *Discourse on Method* (1637). In Descartes’ figuration, animals had lives and physical senses, but lacked reason and souls. Whereas those faculties put humans in control of their own bodies, animal bodies were animated by something he called “animal spirits”: literal gases that provided the means for animal locomotion. Lacking emotional or intellectual existences, “animal machines” were basically automata. The effect of these ideas on attitudes toward animal suffering was probably best expressed by Descartes’ disciple, Nicolas Malebranche, who supposedly enjoyed kicking his dog to hear what he called the “creaking of the machine.”<sup>18</sup> This was an extreme position and not all proponents of inward government accepted it. But it was influential and lasting in its own way. Descartes’ animal machine reverberated, for example, in the words of Pope Pius XII (reign: 1939-1958). “Their cries should not arouse unreasonable compassion,” Pius XII wrote of

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<sup>17</sup> Fudge, *Brutal Reasoning*, 74-80.

<sup>18</sup> Carson, *Men, Beasts, and Gods*, 38. For more on Descartes, see Fudge, *Brutal Reason*, 150-157 and Robert Boakes, *From Darwinism to Behaviorism: Psychology and the Minds of Animals* (New York: Cambridge University Press, 1984), 84-91

slaughtered animals, “any more than do red-hot metals undergoing the blows of the hammer.”<sup>19</sup>

Montaigne’s tender sympathy with the affliction of animals reverberated in the words of Henry Bergh, founder the American Society for the Prevention of Cruelty to Animals in 1866, who would describe himself this way: “I have always had a natural feeling of tenderness for creatures who suffer.”<sup>20</sup>

Writers and thinkers of many stripes—theologians, philosophers, mathematicians, scientists, and natural historians—would continue to argue over human and animal natures, and those arguments continue in related form to this day. But with “Of Cruelty,” Montaigne radically opened up intellectual space for thinking seriously about animal sentience and suffering, and about the implications for human behavior that sentience and suffering held. A few seventeenth-century writers, including Joseph Hall, John Bruen, and Robert Cleaver, filled that space, each offering an ethic of fellowship that gave to animals significantly more moral consideration than they had received under the ethic of inward government.<sup>21</sup> When it came to ideas about the suffering of animals, these men were in many ways the intellectual forbearers of eighteenth-century English jurist and economist Jeremy Bentham, whose name has become inextricable from the birth of animal advocacy in the United Kingdom. In his *Introduction to the Principles of Morals and Legislation* (1780), he renounced the objectification of animals as “things” and called for legal protection based on sentience. In a rejection of reason as the basis of rights and in favor of protections based on capacity for suffering, Bentham penned one of most quoted lines in the history of animal advocacy: “The

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<sup>19</sup> Carson, *Men, Beasts, and Gods*, 38.

<sup>20</sup> Susan J. Pearson, *The Rights of the Defenseless: Protecting Animals and Children in Gilded Age America* (Chicago: University of Chicago Press, 2011), 144.

<sup>21</sup> Fudge, *Brutal Reasoning*, 80-83.

question is not, Can they *reason*? nor, Can they *talk*? but *Can they suffer*.<sup>22</sup>

It's difficult to know how or whether these thinkers influenced members of the general public in their dealings with animals. People across the United Kingdom, Europe, and early America held varied ideas about animals, depending on many factors: the time period; their religious orientation; the sermons they heard; the country, region, and community in which they lived; their social status; and the animals they encountered.<sup>23</sup> People in the United Kingdom, Europe, and then later in America might have assumed they had God-endowed dominion over plants and animals, but they would also have been keenly aware of their own places within social hierarchies, also written into the Great Chain of Being. Under such conditions, a loyal dog might have seemed more human than a feudal lord or plantation owner. And many more people than today—whether they lived in rural areas, towns and young cities, or industrializing and expanding metropolises—would have been familiar with the squeals of animals at slaughter, squeals which may or may not have aroused heart-felt sympathy, but which likely didn't sound much like the creaking of a machine.

What can be said with more precision is that broad social transformations, beginning at the end of the eighteenth century and evolving through the nineteenth, would have made available these ideas about human and animal natures, cruelty and kindness, sentience and suffering. And these transformations shaped age-old ideas about human and animal natures into the structuring logic of animal advocacy called “cruelty to animals.” The most important of these transformations was the late-eighteenth-century emergence in the UK and Europe of a “cult of sensibility” or

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<sup>22</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (Oxford: Clarendon Press, 1781), 310-11, n.1; quoted in Favre and Tsang, “The Development of Anti-Cruelty Laws During the 1800's,” 3.

<sup>23</sup> See Keith Thomas, *Man and the Natural World: Changing Attitudes in England, 1500-1800* (London: Penguin, 1987); Salisbury, *The Beast Within* (1994); Virginia DeJohn Anderson, *Creatures of Empire: How Domestic Animals Transformed Early America* (New York: Oxford University Press, 2005); Arthur MacGregor, *Animal Encounters: Human and Animal Interaction in Britain from the Norman Conquest to World War One* (London: Reaktion, 2012).

“sentimentalism.”<sup>24</sup> The cult of sensibility is now best remembered in eighteenth-century literary works that focused on the emotional lives of characters and that aimed to elicit emotions in its readers.<sup>25</sup> The social transformation that came to be known as “sentimentalism,” though, was bigger and more complex than a collection of generically related novels. It was a constellation of ideas, practices, narratives, and institutional arrangements from the eighteenth into the nineteenth century that were rooted in what was called “fellow feeling”—the notion that humans have natural sympathy for one another and that our sympathies are aroused by the suffering of others.<sup>26</sup>

Sentimentalism emerged in the context of other interconnected intellectual, religious, and social transformations during the period, including the spread of liberal Protestantism; a growing social reform tradition; new ideas about domesticity, childrearing, and the home (including the rise of middle-class pet-keeping); and the popularity of “common sense philosophy,” which rejected Hobbesian notions of depraved self-interest in favor of a belief in relational interests, positing that humans were endowed with passions that tended toward the good of the community. The philosophy also posited that those people whose passions tended elsewhere were fundamentally flawed.<sup>27</sup> Feeling sympathy and recognizing the suffering of others became the features of a sentimental culture that made ideas about human cruelty and animal suffering meaningful at the

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<sup>24</sup> Among the historians who point to the rise of sentimentalism as a major influence on the beginnings of animal advocacy are: Gerald Carson, *Men, Beasts, and Gods* (1972); Harriet Ritvo, *The Animal Estate: The English and Other Creatures in the Victorian Age* (Cambridge, MA: Harvard University Press, 1987); Jennifer Mason, *Civilized Creatures: Urban Animals, Sentimental Culture, and American Literature, 1850-1900* (Baltimore: Johns Hopkins Press, 2005); Katherine C. Grier, *Pets in America: A History* (Chapel Hill: University of North Carolina Press, 2006); and Susan Pearson, *The Rights of the Defenseless* (2011).

<sup>25</sup> John Mullan, “Sensibility and Literary Criticism,” in *The Cambridge History of Literary Criticism: Volume 4, the Eighteenth Century*, eds. Hugh Barr Nisbet and Claude Julien Rawson (Cambridge, UK: Cambridge University Press, 2005).

<sup>26</sup> Pearson, *The Rights of the Defenseless*,

<sup>27</sup> Pearson, *The Rights of the Defenseless*, 9, 30, 60. On sentimentalism in the United States more generally see Shirley Samuels, ed. *Cult of Sentiment: Race, Gender, and Sentimentality in 19<sup>th</sup>-Century America* (New York: Oxford University Press, 1992); Mary Hendler and Glenn Hendler, *Sentimental Men: Masculinity and the Politics of Affect in American Culture* (Berkeley: University of California Press, 1999); and Glenn Hendler, *Public Sentiments: Structures of Feeling in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2001).

beginning of the nineteenth century, paving the way for institutionalized animal advocacy to be born. Sentimental culture, built on and disseminated by a growing mass print culture in the nineteenth century, created a world in which reformers could imagine mollifying the suffering of slaves, the poor, and children. It allowed those same people to think about the suffering of animals, and to consider their own proclivities toward cruelty or kindness in a way that was new—yet rooted in centuries of western intellectual tradition. This is how the two sides of the animal cruelty coin were forged.

“Cruelty to animals,” therefore, emerged from the deep intellectual history set out above and from this new set of cultural formations to become the core of nineteenth-century animal advocacy in both the United Kingdom and in the United States. Ideas about the social dangers of human cruelty to animals figured prominently in nineteenth-century animal protection narratives, childrearing guides, and children’s literature wrought by sentimentalism’s ethic of kindness and fellow feeling.<sup>28</sup> A representative example could be found in an 1808 reprint of Samuel Jackson Pratt’s *Pity’s Gift: A Collection of Interesting Tales, to Excite the Compassion of Youth for the Animal Creation* (1798), in which an editor wrote by way of introduction: “Every one must have noticed in most children, a tyrannical, sometimes cruel propensity to torment animals within their power, such as—persecuting flies, torturing birds, cats, dogs &c.” Those children required, “lessons of compassion for the *dumb creation*, as a fellow feeling for their own species... because an early neglect of the duties of humanity, in regard to the *first*, leads but too naturally to an omission of those duties as to the *last*.”<sup>29</sup>

Pratt’s view was a constant refrain among Anglo-American animal advocates throughout the nineteenth century and into the twentieth. In the United States this argument about human cruelty

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<sup>28</sup> Pearson, *The Rights of the Defenseless*, 30

<sup>29</sup> Ritvo, *The Animal Estate*, 131.

was a key rhetorical strategy for animal protective societies springing up across the nation as they lobbied state legislatures for anti-cruelty statutes. “Ruined-through-cruelty” narratives depicted children whose youthful cruelty led to grown-up brutality, and reformers turned animal cruelty into a social problem that justified state intervention—putting into practice an ideology that historian Susan Pearson has called “sentimental liberalism.”<sup>30</sup> The American Sunday-School Union distributed copies of *Kindness to Animals; or, the Sin of Cruelty Exposed and Rebuked* (1845), in which parents learned that pets could act as training companions for children to help them develop appropriate feelings and behavior toward others.<sup>31</sup> Children who didn’t learn these lessons—who grew up to beat carriage horses and fight cocks (even if they never did turn their cruel behavior toward other people)—were demonized by reformers on both sides of the Atlantic. Their inhumane behavior seemed to rob them of their humanity. They were bestialized—beings, perhaps, of a lower order than the animals they harmed. As one humane reformer put it in 1888, during an address to the Ladies’ Humane Society of St. Louis: “Think how often you see a horse on the street, driven by something which gloried in the form of a man, but groveled in the lowest brute instinct... Of the two, he who were the human form was the brute.” That these beings of lower order often happened to be people of lower socioeconomic status than the middle-class reformers who monitored their behavior—whether the offenders were immigrant carriage drivers in nineteenth-century New York City or local cockfighters in colonial Burma and Java—conveniently fit into the broader discourses of “civilization” that often justified private and public efforts at social reform.<sup>32</sup> These ideas about human cruelty, rooted in the ethic of inward government and reshaped by sentimental culture’s ethic of kindness, appealed especially to Anglo-American judges, law enforcement, legislators, and

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<sup>30</sup> Pearson, *The Rights of the Defenseless*, 3-4, 47; Grier, *Pets in America*, 142-150.

<sup>31</sup> Grier, *Pets in America*, 179; Mason, *Civilized Creatures*, 13.

<sup>32</sup> Qtd. in Pearson, *The Rights of the Defenseless*, 69; Ibid, 73, 82; Ritvo, *The Animal Estate*, 134-145, 152-153; Mason, *Civilized Creatures*, 122.



reformers often less concerned about animal suffering than about policing human behavior.

But that was just one side of the animal cruelty coin. The other side was also visible. Those same sentimental narratives of childhood cruelty and kindness were often suffused with depictions of animals as sentient, suffering, feeling beings. Many other popular nineteenth-century narratives depicted emotional animals, including *Wild Animals I Have Known* (1898) and other widely read wild-animal fictions by Ernest Thompson Seton, who also authored the official *Boy Scout Handbook*.<sup>33</sup> Some narratives depicted animal sentience in the form of animal characters that could talk—a literary tradition with ancient, global roots and one that would persist in twentieth-century children’s books and films. The most important of these talking-animal stories with regard to animal advocacy was Anna Sewall’s *Black Beauty: The Autobiography of a Horse* (1877), a first-person narrative written from the perspective of a working horse. George Angell, founder of the Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA), which distributed the book in the United States, called it the “The ‘Uncle Tom’s Cabin’ of the Horse,” likening its arousal of readers’ sympathy for animal suffering to Harriet Beecher Stowe’s novel’s arousal for sympathy for the suffering of slaves.<sup>34</sup>

The discourse of animal sentience and suffering went beyond popular fictional narratives such as these and shaped the foundational language and logic of animal protection more broadly. The *New York Times*, for example, reported in 1882 on the “misery” of carriage horses, describing the “poor things” as they “shift painfully from leg to leg”—animals “condemned to long years of the extremest misery without remedy or appeal”<sup>35</sup> It was the side of the animal cruelty coin played by T.T. Munger, a liberal clergyman, in his *The Rights of Dumb Beasts* (1898). “Their suffering is, further

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<sup>33</sup> Mason, *Civilized Creatures*, 166.

<sup>34</sup> Ibid., 122-3; Pearson, *The Rights of the Defenseless*, 125.

<sup>35</sup> Carson, *Men, Beasts, and Gods*, 91-92.

more, not just a matter of body, as is sometimes thought,” he wrote,” but also of mind, for they suffer keenly in their minds and hearts, or as we usually say, in their feelings.”<sup>36</sup>

“Cruelty to animals,” and its dual emphasis on human cruelty and animal suffering, spurred the anti-cruelty laws that humane reformers in the United States achieved, beginning in New York in 1867. That year, the newly founded American Society for the Prevention of Cruelty to Animals successfully convinced the New York state legislature to pass a broad anti-cruelty statute that became the template for other states to follow. The words of a Mississippi judge, Judge Arnold, writing in 1887 captured the two-sided logic that drove “animal cruelty”:

[L]aws, and the enforcement or observance of laws for the protection of dumb brutes from cruelty, are, in my judgment, among the best evidences of the justice and benevolence of men... Human beings have at least some means of protecting themselves against the inhumanity of man,-that inhumanity which 'makes countless thousands mourn,'-but dumb brutes have none. Cruelty to them manifests a vicious and degraded nature, and it tends inevitably to cruelty to men. Animals whose lives are devoted to our use and pleasure, and which are capable, perhaps, of feeling as great physical pain or pleasure as ourselves, deserve, for these considerations alone, kindly treatment. The dominion of man over them, if not a moral trust, has a better significance than the development of malignant passions and cruel instincts. Often their beauty, gentleness and fidelity suggest the reflection that it may have been one of the purposes of their creation and subordination to enlarge the sympathies and expand the better feelings of our race. But, however this may be, human beings should be kind and just to dumb brutes; if for no other reason than to learn how to be kind and just to each other.<sup>37</sup>

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*Behaving Like Animals* follows the intellectual and cultural history of “cruelty to animals” from the beginning of the twentieth century in the United States to the present, with the most emphasis placed on the years after 1950. It tells the story of these old ideas about human and animal natures, cruelty and kindness, suffering and sentience doing ideological, cultural, political, and legal work in a modern age under new regimes of knowledge, technology, activism, and law.

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<sup>36</sup> Pearson, *The Rights of the Defenseless*, 129.

<sup>37</sup> *Stephen v. State*, 3 So. 458-59 (Miss. 1887) as qtd in Favre and Tsang, “The Development of Anti-Cruelty Laws During the 1800’s,” 31.

For animal advocates in modern America, the structuring logic of “cruelty to animals” has remained central to their mission, even if some groups have moved toward an approach rooted in the notion that animals possess fundamental rights akin to our own human rights. The distinction between the two has been important for many groups and leading voices. (For example, the National Catholic Society for Animal *Welfare* changed its name to the Society for Animal *Rights* in 1972.)<sup>38</sup> The shift in animal advocacy from nineteenth-century welfare to twentieth-century rights is easily overstated, though. Animal advocates used the language of rights in the nineteenth century, first of all.<sup>39</sup> And animal advocacy today, though often called the animal *rights* movement, continues to focus on preventing human cruelty and on alleviating animal suffering in a variety of practices, from animal experimentation to animal slaughtering. The language of human cruelty and animal suffering pervades animal advocacy discourse. Even People for the Ethical Treatment of Animals, a group often portrayed in popular media as the epitome of animal rights radicalism, emphasizes the alleviation of animal suffering through human kindness and compassion—an emphasis embedded in its full title.

Although rights discourse seems to predominate today, the American laws in place mainly derive from older ideas about human cruelty and animal suffering. State anti-cruelty laws, though expanded upon over the years, remain the main legal protection for animals. The old logic that structured those laws, therefore, remains the dominant frame for human-animal relations.<sup>40</sup> The

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<sup>38</sup> Diane L. Beers, *For the Prevention of Cruelty: The History and Legacy of Animal Rights Activism in the United States* (Athens, Ohio: Ohio University Press, 2004), 148-150; Helen Silverstein, *Unleashing Rights: Law, Meaning, and the Animal Rights Movement* (Ann Arbor, MI: The University of Michigan Press, 1996), 28. Following the publication of Peter Singer’s seminal book, *Animal Liberation* (1975), some rights-based groups also adopted the concept of “liberation,” a concept borrowed from the civil rights movement, anti-apartheid activism, feminism and gay rights. Peter Singer, *Animal Liberation: A New Ethics for our Treatment of Animals* (New York: Random House, 1975); James Jasper and Dorothy Nelkin, *The Animal Rights Crusade: The Growth of Moral Protest* (New York: Free Press, 1992) 37-41.

<sup>39</sup> On rights discourse in the nineteenth-century humane movement, see chapter 3, “‘The Rights of Whatever Can Suffer’: Reconciling Liberalism and Dependence,” in Pearson, *The Rights of the Defenseless*.

<sup>40</sup> Favre and Tsang, “The Development of Anti-Cruelty Laws During the 1800s,” 31-32.

federal government, too, has intervened on behalf of animals, beginning with the passage of the Humane Slaughter Act in 1958, followed by the Laboratory Animal Welfare Act in 1966 (amended several times since and now called simply the Animal Welfare Act); the Marine Mammal Protection Act in 1972; and the Endangered Species Act in 1973.<sup>41</sup> These federal laws, though less concerned with the social threat of human cruelty than are anti-cruelty statutes, have nothing to do with “rights” and everything to do with “welfare”—protecting animals from suffering. The Humane Slaughter Act, for example, stipulated: “no method of slaughter or handling in connection with slaughtering shall be deemed to comply with public policy of the United States unless it is humane.” And the Animal Welfare Act’s stated purpose was “to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets receive humane treatment and care.”<sup>42</sup> When it comes to ideas about human-animal relations, then, things are not so different in recent U.S. history from more distant pasts. We continue to think about human and animal natures—about sentience, suffering, and animal mental life; and about human behavior, cruelty and kindness, and the social implications of the way we treat animals. Even as “rights” and “liberation” discourses have proliferated and as state and federal governments have enacted laws beyond the anti-cruelty statutes that emerged in the 1860s, “cruelty to animals” has remained our main conceptual apparatus for thinking about animals and about ourselves.

If these ideas have shaped our human-animal world, then what does that world look like today? Sentimental culture’s ethic of kindness has left us with a country in which 62% of households had at least one pet in 2012. (The U.S. population in 2012, for reference, was 313.9 million). According to the American Veterinary Medical Association, that year there were 69.9 million dogs; 74.1 million cats; 8.3 million birds; and 4.9 million horses. Before you even consider fish, ferrets,

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<sup>41</sup> Harold Guither, *Animal Rights: History and Scope of a Radical Social Movement* (Carbondale, IL: Southern Illinois University Press, 1998), 219.

<sup>42</sup> Daniel Moretti, *Animal Rights and the Law* (New York: Oceana, 1984), 42-3.

hamsters, guinea pigs, gerbils, turtles, snakes, and lizards, that's a massive number of companion animals living in homes, having names, training children to be kind and sympathetic citizens, and arousing feelings of love and affection in their owners, many of whom see in their animal companions obvious signs of emotion, intelligence, and sentience, in this case characterized by affection rather than by suffering.<sup>43</sup>

While we live intimately with millions upon millions of companion animals, we also inhabit a world of massive, unimaginable animal suffering and death. This touches even the dogs and cats we so love so dearly. According to the ASPCA, between 5 million and 7 million companion animals enter shelters every year. (The human population of New York City is 8 million.) Of those, 3 to 4 million are euthanized—60 percent of sheltered dogs and 70 percent of sheltered cats. (The human population of Los Angeles is 3.8 million.) And it's almost impossible to know how many stray dogs and cats live in the United States at any given point. The ASPCA estimates that there are up to 70 million stray cats. (The human population of the United Kingdom is 63.2 million.)<sup>44</sup> Even if the ethic of kindness to companion animals has been internalized by most Americans, how well many of us have internalized that ethic is up for debate. Acts criminalized by anti-cruelty laws—malicious abuse, killing, and neglect and abandonment—are rarely reported, inconsistently prosecuted, and poorly recorded by states. Even if only a fraction of companion animals suffer malicious abuse, the reports collected by Pet-abuse.com, a watchdog group, paint a startling picture of the persistence of human cruelty to animals in twenty-first century America. In the months between October 2012 and January 2013, a dog owner in Jonesboro, Georgia leashed his dog with a make-shift collar of zipties so tight they it became embedded in the dog's flesh. Someone in Arcata, California shot a cat with a

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<sup>43</sup> American Veterinary Medical Association, *2012 Pet Ownership & Demographics Sourcebook*, available at <https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx> (accessed February 23, 2013).

<sup>44</sup> ASPCA, "Pet Statistics," <http://www.aspc.org/about-us/faq/pet-statistics.aspx> (accessed February 23, 2013)

blowdart. Someone in Boise, Idaho beat a monkey to death at a zoo. In Buffalo, New York, two teens hanged a puppy and set it on fire. In Fremont, Ohio, someone left a box of kittens on the side of a road during a snowstorm. Pages and pages into these reports and the ethic of inward government begins to make a great deal of sense.<sup>45</sup>

The animals that bear the statistical brunt of suffering and death are, of course, not the animals that live in our homes. They are the animals that live and die on our hunting grounds, in our laboratories, and on our farms; the latter two, especially, grew immensely in the United States after the passage of the first anti-cruelty laws and have exploded in scale since the passage of the Humane Slaughter and Animal Welfare Acts. It's worth dwelling on the scale of animal suffering and death when considering how "cruelty to animals" has functioned as the structuring logic of human-animal relations within modern, emerging, and shifting contexts.

On our hunting grounds, where the ethics of killing animals gets tied up with ideas about American history and founding principles, about gun rights and threats to them, and about rural culture, hunting statistics for animal kills (or, in the parlance of hunting and wildlife management, "harvests") are poorly maintained and poorly shared across states. The U.S. Fish and Wildlife Service keeps no record of animal deaths. It does report that in 2011, there were 12.5 million American hunters (aged 16 and above) who spent a total of 220 million days legally hunting big game, small game, and migratory birds. (There are no statistics for illegal hunting.)<sup>46</sup> With no kill statistics, it's impossible to know how many animals died in the course of those 220 million days.

In our biomedical laboratories, where ethics of making, testing, and killing animals gets tied up with ideas about scientific, technological, and human progress and about the production of

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<sup>45</sup> See [www.pet-abuse.com](http://www.pet-abuse.com).

<sup>46</sup> U.S. Fish and Wildlife Service, "2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation" (Washington, DC: GPO, 2012)

knowledge (often in the rhetorical if not always the actual form of life-saving medical advancements): according to the United States Department of Agriculture's most recent statistics, there were over one million animals in laboratories across the United States in 2010. That number is deceptive, since Congress amended the Animal Welfare Act in 2002 to exclude rats and mice from the definition of "animal." Rats and mice make up more than 95% of all animals used in biomedical research, and without strict record keeping, it remains difficult to know how many laboratory mice and rats die every year. The best estimates are old—from 1998—and come from the National Association for Biomedical Research, a lobby group, which estimated that there were 23 million lab mice and rats that year. The NABR has not revised their estimate since, although they noted that the number might double in a decade. In 2009, with no new estimates, the NABR could only venture that the number "may well have done so."<sup>47</sup>

And on our farms, where the ethics of raising and killing animals for food gets tied up with ideas about commerce and state regulation, the science of animal natures, and environmental sustainability (among many other issues): here is where the vast majority of animals in the U.S. and in the world live and die, not on a farm, exactly, but in a complex network of industrial facilities for the intensive, large-scale raising and slaughtering of animals and for the global distribution of meat and animal products. In 2012, 9 billion cows, pigs, ducks, chickens, turkeys, sheep, and lambs were slaughtered in the United States. (The human population of the Earth is 7 billion.) Add to that number the 9.2 million dairy cows that produce milk, butter, and cheese, and the 346 million layer

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<sup>47</sup> Animal and Plant Health Inspection Service, USDA, "Annual Report Animal Usage by Fiscal Year" (2010), available at [http://www.aphis.usda.gov/animal\\_welfare/efoia/downloads/2010\\_Animals\\_Used\\_In\\_Research.pdf](http://www.aphis.usda.gov/animal_welfare/efoia/downloads/2010_Animals_Used_In_Research.pdf) (accessed February 23, 2013); 107<sup>th</sup> Congress, H.R. 2646 "Public Law 107-171 Farm Security and Rural Investment Act of 2002," May 13, 2012; National Association for Biomedical Research, "The Humane Care and Use of Laboratory Animals 2008," November 18, 2010, available at <http://www.nabr.org/WorkArea/DownloadAsset.aspx?id=346> (accessed February 23, 2013); Humane Society of the United States, "Questions and Answers about Biomedical Research," September 28, 2009, available at [http://www.humanesociety.org/issues/biomedical\\_research/qa/questions\\_answers.html](http://www.humanesociety.org/issues/biomedical_research/qa/questions_answers.html) (accessed February 23, 2013).

hens that produce eggs.<sup>48</sup> Whether or not you accept or reject the right of humans to eat animals—a part of humankind’s God-given dominion over animals, according to the Bible—the scale of animal suffering and death under the current conditions of animal agriculture is startling.

These statistics on American petkeeping, hunting, biomedical research, and animal agriculture are suggestive of the social world in which the animal cruelty coin is deployed to do its cultural work—a social world that Thomas Aquinas and Michel de Montaigne could never have foreseen when they were thinking about human cruelty and animal suffering; a social world in which American share their lives and homes with 150 million companion animals while 9 billion animals die each year to feed us and our pets; and a social world that, even as it has evolved over the course of the twentieth century and into the twenty-first into its present shape, has remained inextricably connected to the intellectual and cultural histories that I described above. The ideas we use to make sense of this new human-animal world are versions of the ideas that men and women in the recent, distant, and very distant pasts used to make sense of theirs. Even as the treatment of animals in America has transformed dramatically over the course of the twentieth century in ways that would have been unimaginable to our ancestors, the ideas that Americans use to make sense of this changing human-animal world are the ones inherited from Aquinas and Montaigne, from the cultural formations of sentimentalism, and from nineteenth-century humane reformers such as Henry Bergh and George Angell, who shaped this constellation of ideas about human and animal natures, about cruelty and kindness, and about suffering and sentience into the structuring logic of animal advocacy that we still today call “cruelty to animals.”

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<sup>48</sup> Humane Society of the United States, “Farm Animal Statistics: Slaughter Totals,” February 5, 2013; available at [http://www.humanesociety.org/news/resources/research/stats\\_slaughter\\_totals.html](http://www.humanesociety.org/news/resources/research/stats_slaughter_totals.html) (accessed February 23, 2013); Economic Research Service, United States Department of Agriculture, “Milk Cows and Production by State and Region (annual),” September 20, 2012; available at [http://www.ers.usda.gov/datafiles/Dairy\\_Data/milkcowsandprod\\_1.xls](http://www.ers.usda.gov/datafiles/Dairy_Data/milkcowsandprod_1.xls) (accessed February 23, 2013); National Agricultural Statistics Service, USDA, “Chickens and Eggs,” December 21, 2012, available at <http://usda01.library.cornell.edu/usda/nass/ChicEggs//2010s/2012/ChicEggs-12-21-2012.pdf> (accessed February 23, 2013).



How then to write a history of “cruelty to animals” in modern America—a history of intellectual inheritance and adaptation amidst broad cultural, legal, social, technological and scientific change? A chronological narrative will not do. No single narrative can take stock of the scale and variety of cruelty and suffering. Take intensively farmed animals. Every feature of their lives is managed by humans and therefore every aspect of their lives is an opportunity for people to argue over cruelty and suffering. From the food they eat, to the biomedical interventions they receive, to the places they sleep, to the texture of paths they walk on, to the angle of chutes they walk through, to the angles and wavelengths of lights, to the pitches and levels of sounds, to the pounds-per-square-inch of the captive bolt stunners that puncture their skulls to render them unconscious, to the length of time between having been stunned and having their throats slit—almost every moment is an opportunity for them to experience suffering and for humans to argue over which sorts of human treatments of animals are cruel and which are not. The same could be said of animals in biomedical research. Beyond these massive institutions, the variety of potential incidents of cruelty and suffering in modern America are innumerable. We need to take stock not only of the incidents of malicious abuse monitored by Pet-abuse.com, but also of puppy mills, rodeos, circuses, zoos, cockfighting and dogfighting, animal hoarding, animals in Hollywood, trapping, trafficking in exotic animals, cosmetic testing, and the production of fur, leather, and wool. Writing a cultural history of “cruelty to animals” in the twentieth- and twenty-first-century United States means recognizing the scale and diversity of animal suffering, generally, and it also means recognizing the particularities within the diversity. Ideas about human cruelty and animal suffering are made to reckon with many different human practices and with the discourses and ideologies that surround those practices. Once the animal cruelty coin is in play, cruelty and suffering become notions both malleable and disputable. Contests over “cruelty to animals,” as I wrote above, become contests over history, knowledge, science, technology, ethics, religious feeling, culture, commerce, the role of the state,

and, of course, about what it means to be human and animal.

For these reasons of scale and particularity, and in order to account for what these different contests share and don't share, I've written *Behaving Like Animals* as four case studies, each focused on a practice that animal advocates have labeled cruel in the twentieth- and twenty-first-century United States: malicious animal abuse, cockfighting, intense animal agriculture, and the harming of animals on film. The case studies all concern debates about human cruelty and animal suffering—some cases tilt more toward one than toward the other—and reveal the persistent intellectual and cultural forces embedded in this constellation of ideas we call “cruelty to animals.” But each case is its own story featuring different actors, different ideas and ideologies, different histories, and different forms of knowledge. The case studies therefore illuminate the wide-ranging cultural work that “cruelty to animals” has done in the United States since the beginning of the twentieth century. Drawing on a variety of sources and texts—government reports and legal documents; congressional hearings and political discourse; evolving knowledge in the natural and social sciences of animal behavior, psychology, neuroscience, criminology, and anthropology; newspapers and media; literature, film, and art—I use interdisciplinary historical methods to reveal how specific charges of animal cruelty have been articulated, challenged, and inscribed (or not) in law and policy, while figuring in broader cultural discourses about crime, culture, science, and artistic expression. Ideas about human cruelty and animal suffering have continued to help us think about animals and about ourselves.

Chapter one, “Jeffrey Dahmer’s Fiddlesticks: Human Cruelty, Crimes Against Animals, and the Threat to Kill,” is a cultural history of animal cruelty as it has been codified in law and popularly understood—as malicious violence against an animal committed by a deviant person. In this chapter we see the age-old ethic of inward government’s enduring influence, persisting in the twentieth century in new cultural and discursive forms: psychology and social sciences, crime writing, anti-

cruelty advocacy, and popular culture. In the 1960s, psychologists, criminologists, and researchers of child development began to study childhood predictors of adult violence, and they looked to animal cruelty as a predictive indicator that a young person might be on the path to violent crime. Those studies invested with the authority of social science much older claims about the link between cruelty to animals and violence against humans. The serial killer panic of the 1970s and 1980s popularized those findings, and narratives of serial murder, from the memoirs of FBI agents, true crime writing, and film, perpetuated the link until it was widely known to the public. Finally, in the late 1980s and 1990s, animal advocates in the United States deployed these findings and narratives in a national campaign to raise state anti-cruelty statutes to felony levels. The chapter, therefore, brings the intellectual history of “cruelty to animals” recounted above into the twenty-first century, tracing its continuities while also revealing how cruelty discourses emerging out of social science, popular culture, advocacy, and law have figured in broader debates about crime and personhood, childhood and adulthood, deviance and society.

Chapter two, “Cockfighter Nation: Cruelty, Culture, and the Making of Modern America,” is a history of how cockfighting became a practice that was both cruel and cultural in the course of the twentieth century. Middle-class reformers in the nineteenth century, as I note above, saw animal cruelty as an indicator of cultural inferiority among workers, immigrants, and men and women of lower socioeconomic standings. The chapter traces the afterlife of those ideas in the twentieth-century United States in the context of U.S. imperialism and its racial ideologies, changing patterns of immigration, and developing notions of “culture.” The chapter is a comparative history of cockfighting in the mainland United States (especially in the rural South) and in three of the islands occupied by the United States after the Spanish-American War: Cuba, the Philippines, and Puerto Rico. In both sets of places, I argue, cockfighting became invested with cultural meanings over the course of the twentieth century. In the years around the Spanish-American War in 1898, journalists,

missionaries, soldiers, government officials, and educators found cultural significance in Cuban, Puerto Rican, and Philippine cockfights—reading them with an imperial eye that marked these island populations as uncivilized, degraded, immoral, and incapable of self-government. As such, cockfighting became a central, and historically overlooked, tool in the imperial racial formation of Cubans, Puerto Ricans, and Filipinos, and a site of battles over cultural and political sovereignty. My chapter tells that previously untold story alongside the story of cockfighting in America.

As late as the 1880s, cockfighting was a widespread sport in the United States, popular in city and country alike. Gradual state-by-state prohibition in the twentieth century pushed cockfighting to the margins of social and sporting life, and cockfighters responded by creating an elaborate national mythology about the place of cockfighting in American cultural heritage: Washington and Jefferson fought cocks at Mt. Vernon, they claimed; Abraham Lincoln earned his nickname, “Honest Abe,” while refereeing cockfights in Illinois; the gamecock lost to the bald eagle by only one vote when the National Emblem was chosen. With these stories, American cockfighters framed their sport as a piece of American cultural heritage wrongly targeted by animal advocates—a “national pastime”—and their mythology became legal armor as animal advocates sought to ban cockfighting in all fifty states, a goal that would finally be achieved in 2007. Cockfighters framed their stateside practice in the related discourses of both multiculturalism and of the “culture wars” that split liberals from conservatives, rural from urban America, and evangelical Christians from secularists. In both histories, a practice labeled cruel became an imaginative site of cultural meanings. It allowed Americans to imagine the people of Cuba, the Philippines, and Puerto Rico, while also creating opportunities for cockfighters in those islands and in the mainland U.S. to imagine and make cultural claims about themselves.

Chapter three shifts from social and cultural understandings of human cruelty to scientific understandings of animal sentience and suffering. “Happy Cows and Stressed Pigs: Intensive

Farming and the Science of Animal Suffering” traces continued debates about animal suffering, sentience, and lived experience. Thinking about “cruelty to animals” has always meant thinking about animal natures, as I’ve shown, from the “dumb beasts” of Aquinas, Kant, and Locke, to Descartes’ animal machine, to the talking and feeling animals of nineteenth-century sentimental culture. In this chapter, I connect this intellectual and cultural thread to the world of intensive animal agriculture (what animal advocates call the “factory farm”) and to evolutions of scientific knowledge in the twentieth-century United States about human and animal minds and emotions. The world of intensive animal agriculture has been the key site for working out larger scientific debates among psychologists, neuroscientists, and animals scientists about whether animals are able to feel emotions, think about and perceive their environments, and experience suffering (that is, the subjective experience of physical pain). I draw together several related histories that unfolded over the course of the twentieth century and that have shaped the way we now raise and slaughter animals: the evolution of scientific ideas about animal mental life from Darwin in the nineteenth century to behaviorism and the cognitive revolution in the twentieth; the influence of those ideas on the science and technology of intensive agriculture in the second half of the twentieth century; and subjective discourses of animal suffering that animated campaigns for humane slaughter laws just as they had once animated campaigns for anti-cruelty statutes.

Those historical strands, I argue, connected formatively in the career of Temple Grandin, a leading designer of humane systems of animal raising and slaughter since the late 1970s. Grandin’s approach to animal agriculture has focused on emotion as the foundation of animal behavior and, therefore, as the key factor in designing slaughter systems that are both humane and efficient. Most accounts of Grandin, who is a high-functioning person with autism, consider her understanding of animal mental life a product of how autism has affected her own perception and emotions. (She, too, has emphasized this point.) I, however, use Grandin’s writings—popular, technical, and written

for industry personnel—to show how her ideas and designs have emerged out of and in response to the scientific, intellectual, and discursive contexts cited above. In the process, I connect Grandin to a larger scientific and intellectual history of animal emotion and reveal the influence of that history, both on the material world of intensive animal agriculture and on the crafting of agricultural policy. More broadly, I am able to trace the uneven evolution of scientific ideas about animal feeling and suffering—things that humane discourse takes for granted, but that remains nonetheless controversial among many scientists.

The fourth and final chapter, “Animals Were Harmed: Censorship, Speech, and Animal Suffering on Film from Classical Hollywood to the Crush Act,” concerns the visual depiction of animal cruelty/suffering and the role of animal advocacy in the development, implementation, and transformation of instruments of film censorship in the United States. Nineteenth-century animal advocates were concerned about cruelty to performance animals, but it was only with technological innovations in visual media in the twentieth century that the logic of “cruelty to animals” was made to reckon with filmed depictions of animal suffering and with their disseminations. The history of film in America—from classical Hollywood, to the rise of independents and foreign film, to VHS, to the Internet—is partly a history of law, censorship, and regulation, and that is a history in which animal advocacy has played a necessary, and under-acknowledged part. From the formation of state censor boards in the early twentieth century, to the embracing of self-censorship by a motion picture industry wary of state intervention, to the enactment more recently of a federal law banning depictions of animal cruelty—animal advocates have been formatively involved in developing tools of censorship that changed how films (broadly construed) were made and shown.

I focus on three distinct periods in the twentieth- and twenty-first centuries when visions of animal cruelty tested the limits of visual expression. First, I examine the public debates surrounding animal abuse in Hollywood before 1940, the year that the Motion Picture Producers and

Distributors of America empowered the American Humane Association to monitor film sets for cruelty and abuse and films for content. Second, I offer a transnational history of filmed cruelty to animals in the exploitation cinema of the 1960s and 1970s. Films featuring scenes of real animal suffering and death appeared on the independent/arthouse film circuit in the U.S., where they shocked audiences at a time when animal advocates were seeing, after the fall of the Motion Picture Production Code, higher incidence of animal abuse in mainstream films. Finally, I examine debates surrounding the more recent passage of 18 U.S.C. 48, a federal law that banned the production, distribution, and possession of films or images that depicted any form of cruelty to animals except those with “serious religious, political, scientific, educational, journalistic, historical, or artistic value.” The law was passed in 1999, ruled unconstitutional by the U.S. Supreme Court in 2010, and passed by Congress again, with altered language, the same year. Depictions of animal cruelty and suffering, I argue in this chapter, have been of central importance in the cultural, legislative, and judicial processes of dividing acceptable expression from censorable expression, a process both historic and ongoing, and that has seen adult pornography distinguished from child pornography, hate speech from incitements to violence, and depictions of animal cruelty with “serious value” from those without it.

Each of these case studies is its own history—a self-contained intellectual and cultural history of “cruelty to animals” in recent U.S. history. But there are several shared historical threads that run through them—social, cultural, legal, and scientific developments that shaped and were in turn shaped by ideas about human cruelty and animal suffering.

One historical thread is the intensification of animal advocacy in the second-half of the twentieth century. New state and national organizations sprang up, especially beginning in the 1960s and 1970s, securing the passage of important federal laws, and the movement grew exponentially after that. As a movement, its heyday began in the 1980s. At the beginning of that decade there were

150 animal advocacy groups in the United States. By the early 1990s, that number had grown to more than 900. Money, political influence, and media access also grew. Campaigns in the 1990s to ban cockfighting and the depiction of cruelty to animals on film, and to raise anti-cruelty statutes to felony levels, were facilitated by a social movement with large coffers, easy access to the press, savvy public relations arms, and influence with state and national lawmakers.<sup>49</sup> Added to the organizational element of animal advocacy has been an expansion of intellectual energy around animals and their rights, especially among American academic philosophers. As the *Animals' Agenda* reported in 2000, animal advocates had achieved some of their greatest success, “not in the streets or even the courts or Congress, but within the hallowed halls of our most prestigious universities.”<sup>50</sup> Toward the end of the twentieth century, then, philosophical discourse provided ideological coherence and intellectual underpinnings for public activism, as the movement that came to be called the “animal rights movement” interwove law, thought, and activism in increasingly expansive and nationally visible ways. The broader reverberations of these developments can be seen in every chapter of *Behaving Like Animals*.<sup>51</sup>

Changes in law, policy, and regulation form a second historical thread in *Behaving Like Animals*. The second half of the twentieth century, as I noted above, saw a proliferation of animal-related laws and regulations in the United States, and my case studies trace the cultural makings and aftermaths of those laws. “Jeffrey Dahmer’s Fiddlesticks” tells the history of a coordinated campaign by animal advocates to raise state anti-cruelty laws from misdemeanor to felony levels. “Cockfighter Nation” tells the history of U.S. occupational law in its overseas territories and of another coordinated stateside campaign to criminalize cockfighting in all fifty United States. “Happy Cows

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<sup>49</sup> Silverstein, *Unleashing Rights*, 34; Beers, *For the Prevention of Cruelty*, 198-202.

<sup>50</sup> Ken Shapiro and Jill Howard Church. “It’s Academic: The Growing Field of Animals Studies,” *Animals’ Avena*, April 15, 2000.

<sup>51</sup> Beers, *For the Prevention of Cruelty*, 199.



and Stressed Pigs” tells the history of the Humane Slaughter Act and of scientific and technological responses to subsequent USDA animal welfare regulations. And “Animals Were Harmed” tells the history of evolving legal ideas about free speech and of campaigns by animal advocates to ban depictions of animal cruelty within the context of that constitutional evolution. Each case study focuses on a different “cruel” practice, and, therefore, the legal and regulatory frameworks are different, too. But, together, the case studies trace the complex interrelation of animal advocacy, public perceptions of human-animal relations, and legal formations in the United States since the beginning of the twentieth century.

The third historical thread has to do with knowledge production, expertise, authority, and their materialization in new technologies, ranging from criminal profiling to slaughter systems to filmmaking. “Cruelty to animals” has always been rooted in forms of knowledge, whether of the sort offered by the Bible, rational philosophy, or hierarchies of natural history. Each of my chapters concerns the reciprocal shaping of ideas about “cruelty to animals” and other forms of knowledge, from the natural and “hard” sciences to the human, social, and “soft” sciences. Animal advocates share intellectual and discursive space with experts and authorities who produce knowledge (often contested or speculative, of course) about human and animal natures, including psychologists, anthropologists, sociologists, criminologists, experts in childhood development, cognitive scientists, ethologists, animal scientists, behaviorists, and neuroscientists. Changing regimes and networks of knowledge and knowledge production are therefore central to understanding the cultural and intellectual history of “cruelty to animals” in modern America.

*Behaving Like Animals* is part of a new kind of knowledge production: writing history to take account of non-human actors in social worlds that include humans, animals, spaces, things, sounds, microbes, and many other historical actors. My project contributes to a young and growing project of historical recovery—the historical study of human-animal relations. Animals have always lived

with us in our social worlds, but have not always made it into the histories we write about those worlds. Historians have only recently begun revising those histories, as shown in recent books in just the last few years by Abel Alves on animals in imperial Spain, and by Juliana Schiesari on animals and gender in the Italian Renaissance; and edited collections by Jane Costlow and Amy Nelson on animals in Russian culture, and by Martha Few and Zeb Tortorici on the material and symbolic presence of non-humans from locusts to lamas in Latin American history.<sup>52</sup> This historical project spans epochs and geographies, and is part of a broader trend in the humanities and social sciences that some have called the “animal turn,” akin to the “cultural turn” or the “linguistic turn.”<sup>53</sup> *Behaving Like Animals* is one of many contributions.

*Behaving Like Animals* builds on an expanding historiography on the intellectual and cultural history of human-animal relations in the United Kingdom, Europe, and the United States. This body of work has responded to the oft-cited claim by Claude Lévi-Strauss that “animals are good to think with.”<sup>54</sup> It proceeds from the premise that humans and animals have mutually constituted each other. Ideas about human and animal natures and about human-animal relations have often served to define human society along lines of race, class, gender, religion, culture, politics, region, and so on. Those ideas have also defined, fundamentally, what it means to be human and what it means to be an animal. Or as Erica Fudge so elegantly put it in *Brutal Reasoning: Animals, Rationality, and Humanity in Early Modern England* (2006), “...the human is certainly only fully comprehensible when read within a network that includes animals, and so animals have the capacity to determine the

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<sup>52</sup> Abel Alves, *The Animals of Spain: An Introduction to Imperial Perceptions and Human Interactions with Other Animals, 1492-1826* (Boston: Brill, 2011); Juliana Schiesari, *Beasts and Beauties: Animals, Gender, and Domestication in the Italian Renaissance* (Toronto: University of Toronto Press, 2010); Jane Costlow and Amy Nelson, ed. *Other Animals: Beyond the Human in Russian Culture and History* (Pittsburg: University of Pittsburg Press, 2010); Martha Few and Zeb Tortorici, eds. *Centering Animals in Latin American History* (Durham: Duke University Press, 2013).

<sup>53</sup> Harriet Ritvo, *Noble Cows and Hybrid Zebras: Essays on Animals and History* (Charlottesville: University of Virginia Press, 2010), 1.

<sup>54</sup> Claude Lévi-Strauss, *Totemism* (1962) as quoted in Ritvo, *Noble Cows and Hybrid Zebras*, 1.

nature of the human as much as the human determines that of the animal... if animals disappear, if humans cease to have animals to think with, live with, and observe, then the human will disappear.”<sup>55</sup> Historians have done pioneering work along these lines, including books by Joyce Salisbury, Erica Fudge, and Susan Crane on England and Europe in the middle ages and the early modern period; Harriet Ritvo on the UK in the late-eighteenth and nineteenth centuries; Kathleen Kete on France in the nineteenth century; Virginia DeJean Anderson on early America; and Jennifer Mason, Katherine Grier, and Susan Pearson on the United States in the nineteenth century.<sup>56</sup> *Behaving Like Animals* builds on this historiography and extends its line of historical, intellectual, and cultural inquiry into the United States in the twentieth and twenty-first centuries.

Several of these historians have emphasized the centrality of ideas about human cruelty and animal suffering in their accounts. My project therefore builds on theirs in important ways. Gerald Carson and James Turner made early efforts to trace the development of ideas about cruelty to animals in European and Anglo-American thought. Carson began his broad survey with the Greeks and ended in the United States in the mid-twentieth century. His narrative was largely a progressive one, away from cruelty and toward kindness. Turner’s book did not focus much on America and concerned the nineteenth century.<sup>57</sup> Since then, Fudge, Ritvo, Grier, Mason, and Pearson have traced the historical thread in more nuanced and period-specific ways, together creating an intellectual and cultural history of “cruelty to animals” in the United States and in the UK that brings us to the beginning of the twentieth century.

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<sup>55</sup> Fudge, *Brutal Reasoning*, 190.

<sup>56</sup> Salisbury, *The Beast Within* (1994); Fudge, *Brutal Reasoning* (2006); ed., *Renaissance Beasts: Of Animals, Humans, and Other Wonderful Creatures* (Urbana: University of Illinois Press, 2004); and *Perceiving Animals: Humans and Beasts in Early Modern English Culture* (New York: St. Martin’s Press, 2000); Susan Crane, *Animal Encounters: Contacts and Concepts in Medieval Britain* (Philadelphia: University of Pennsylvania Press, 2012); Harriet Ritvo, *The Animal Estate* (1987); Kathleen Kete, *The Beast in the Boudoir: Petkeeping in Nineteenth-Century Paris* (Berkeley: University of California Press, 1994); Virginia DeJohn Anderson, *Creatures of Empire* (2004); Mason, *Civilized Creatures* (2005); Grier, *Pets in America* (2006); Pearson, *The Rights of the Defenseless* (2011).

<sup>57</sup> Carson, *Men, Beasts, and Gods* (1972)

*Behaving Like Animals* continues that history, revealing how these old ideas have persisted and adapted till today. My work builds most directly on the work of Susan Pearson, whose recent book *The Rights of the Defenseless* (2011) reconstructed the intellectual and cultural world that child and animal protective discourses wrought in the late nineteenth century and into the beginning of the twentieth. Pearson argued for the persistent influence of sentimental culture on ideas about cruelty and suffering, despite claims by many historians that the Civil War had rung a death knell for sentimentalism. In *Behaving Like Animals*, I argue that those same ideas about cruelty and suffering remain not only relevant, but intellectually, culturally, and legally dominant in constructing understandings of human-animal relations. In that sense, the ideas molded by sentimental culture and rooted in much older intellectual traditions have lived well beyond their supposed shelf life of the Civil War, even in the midst of insistently new conditions, ideologies, and forms of knowledge.

*Behaving Like Animals* follows the historical thread through the twentieth century as it became thickly knotted in America's varied social, cultural, intellectual, political, and legal strands. It is the story of this old constellation of ideas about human cruelty and animal suffering in a new world—where they have been shaped and contested on the floors of slaughterhouses and on the floors of legislatures; at cockpits and in jury boxes; on the sets of Hollywood films and at the F.B.I.'s Behavioral Science Unit; in mass media and in the homes of animal hoarders; in supermarket aisles and in the aisles of department stores. From animal advocates to cockfighters, filmmakers to neuroscientists, people in modern America have struggled with one another to answer a seemingly basic question: what is cruel? *Behaving Like Animals* traces the process by which that question has been asked and answered, a process by which Americans have thought about animals (their suffering, their sentience, and their place in the social world we share) and have also thought about ourselves (our capacities for cruelty and kindness, our relations with one another). We have sought to make sense of animals and of humanity, establishing the cultural, behavioral, biological, and

expressive limits of the human by defining what is cruel or inhumane.

## CHAPTER ONE

### JEFFREY DAHMER'S FIDDLESTICKS:

#### HUMAN CRUELTY, CRIMES AGAINST ANIMALS, AND THE THREAT TO KILL

*"One of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it."*<sup>1</sup>  
... Margaret Mead, 1964

Jeffrey Dahmer was a modern-day Tom Nero.

Jeffrey Dahmer killed 17 men and boys between 1978 and 1991. The murders were especially gruesome. Dahmer performed experiments on his victims and tortured them. He dismembered their bodies and consumed pieces of their flesh, famously preserving body parts in a refrigerator and in several blue plastic drums. When those drums were hauled out of his apartment on live television, he instantly became an icon of evil. But before he did any of that, Jeffrey Dahmer was just a young boy who enjoyed collecting road kill.

Beginning when he was ten, Dahmer spent much of his free time riding his bicycle around Bath Township, Ohio collecting road kill in plastic bags. Back at home he dissected the dead animals. Soon, he began to kill small animals himself in order to experiment on their bodies. He skinned them and used acid to strip flesh from their bones. He kept the bones in his own private cemetery on a neighbor's wooded property. For many who have studied Dahmer, those hobbies provided an important clue about what was to come. It was hard to deny the link between his treatment of animals and his later treatment of his victims: the killing, the macabre experiments, the bodily dismemberment, and the preservation of body parts.<sup>2</sup> That link became the lede when the *New York Times* presented Jeffrey Dahmer to the public in an article titled, "Clues to a Dark Nurturing Ground for One Serial Killer: A Child's Love of Cruelty May Hint at Future Trouble."

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<sup>1</sup> Margaret Mead, "Cultural Factors in the Cause and Prevention of Pathological Homicide," *Bulletin of the Menninger Clinic*, 28 (1964), 11-22.

<sup>2</sup> Jeremy Wright and Christopher Hensley, "From Animal Cruelty to Serial Murder: Applying the Graduation Hypothesis," *International Journal of Offender Therapy and Comparative Criminology*, vol. 47, no. 1 (2003): 78.

Published on August 7, 1991, two weeks after Dahmer's arrest, the article began this way: "Perhaps the first sign that something was seriously amiss with Jeffrey L. Dahmer came in 1975," when a group of boys in Bath Township discovered "the head of a dog impaled on a stick" behind the Dahmer home. "For forensic psychiatrists," the *Times* continued, "such a fascination with death and cruelty to animals is an almost predictable sign in the lives of people accused of being serial killers." Blocked off midway through the article and inset in a sidebar, the article warned in large, bold type: "Today's victims may be animals. And what of tomorrow's?"<sup>3</sup>

Go back in time more than two centuries and meet Tom Nero. Tom Nero was the anti-hero of one of the earliest texts in the history of British animal advocacy: *The Four Stages of Cruelty*, a four-plate series made in 1751 by a British engraver named William Hogarth. Hogarth's *Four Stages* traced the life of a man named Tom Nero, whom Hogarth named after the tyrannical Roman emperor. The narrative was one of graduating violence, from the torture of animals to the murder of a woman, leading ultimately to a final image of Nero as an executed corpse being dissected publicly at a medical school. In the first plate, "The First Stage of Cruelty," Nero is a young boy. He and dozens of other boys are torturing animals in sadistic fashion. One group of boys hangs a cat by its tail from a post. Another group of boys sodomizes a dog with an arrow. It is Nero who holds the arrow. Elsewhere in the scene, a bulldog is baited with a cat, and it obliges the crowd by tearing into the feline. The caption to plate one refers to "the Tyrant in the Boy." In the second plate, "The Second Stage of Cruelty," Nero is shown as a grown man beating his collapsed and broken carriage horse, which lies prostrate on the ground, turning away from a blow while pulling a carriage of bloated aristocrats. Nearby, another man beats to death a sheep. In the background is an overloaded donkey. In the third plate, "Cruelty in Perfection," Nero has been captured in a churchyard, having murdered a pregnant servant woman who lies dead on the ground, her throat cut nearly to the point

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<sup>3</sup> "Clues to a Dark Nurturing Ground for One Serial Killer: A Child's Love of Cruelty May Hint at Future Trouble," *New York Times*, August 7, 1991.

of decapitation. A jewelry case and bag containing silver had spilled on the ground. At the urging of Nero, the servant girl had stolen the goods from her mistress. Nero had murdered her and was captured fleeing with the loot. In the final plate, “Reward of Cruelty,” surgeons publicly dissect Nero’s body. A noose hangs from his neck. In the first plate, Nero is a cruel boy inflicting pain on small animals. In the last, he is an executed murderer.<sup>4</sup>

Hogarth’s plates presented a narrative of violent graduation from animal cruelty to homicide—a narrative that would become a primary advocacy tool for humane reformers. The plates also serve as a reminder to a modern audience that the humane movement has always been a social movement focused both on easing animal suffering and on shaping human behavior away from cruelty and toward kindness. Arguing that cruelty to animals made a person more likely to be cruel toward other people did not *necessarily* mean worrying about the suffering of animals. Hogarth wanted to affect “the most stony hearts” of the United Kingdom with his images, “in hopes of preventing in some degree that cruel treatment of poor animals.”<sup>5</sup> But the actual narrative he created was a punitive one, focused less on the rights of animals to live free from suffering than on the moral and social implications of violent human behavior. Rather than simply invite sympathy, the series presented a graduation of violence that ended in murder for a human victim and in execution for the murderer. It was a narrative that discouraged animal cruelty by using the threat of criminal punishment and that encouraged the public policing of animal cruelty by linking it to violence against humans. A small detail in the first plate even suggests that Nero’s end is prefigured in his beginnings. As Nero assaults the dog in “The First Stage of Cruelty,” another child draws in chalk on the wall. The drawing shows a man hanging from the gallows. Beneath the sketched corpse, the

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<sup>4</sup> William Hogarth, *The Four Stages of Cruelty* (London, 1751).

<sup>5</sup> As quoted in Kathryn Shevelov, *For the Love of Animals: The Rise of the Animal Protection Movement* (New York: Henry Holt, 2008), 129.



boy writes a name: “Tom Nero.”

The real life of Jeffrey Dahmer and the fictional life of Tom Nero are part of the same story.

What does it mean for a person to be cruel to animals? What does it say about that person’s character? Is a person who is cruel to animals more likely to be cruel to people? This chapter offers a history of how those questions have been asked and answered in modern America. Americans answering those questions drew on an idea about human nature that was very old, as I explained in my introduction—that people who were cruel to animals were more likely to be cruel to people. This idea, sometimes known as the ethic of inward government, was formed over time by thinkers such as Aquinas, Kant, and Locke; given shape and cultural legibility in the nineteenth century by sentimental culture; and established as the structural logic of animal advocacy: the thing called “cruelty to animals.”

The argument embedded in *The Four Stages of Cruelty* was central to the earliest legislative and organizational efforts on behalf of animals. On May 5, 1809, Thomas Erskine, a barrister and member of House of Lords (and later Lord Chancellor of the United Kingdom) introduced a bill to Parliament entitled, “An Act to prevent malicious and wanton Cruelty to Animals.” The bill’s preamble, which he read aloud during the debate, read,

Whereas it has pleased Almighty God to subdue to the dominion, use, and comfort of man, the strength and faculties of many useful animals, and to provide others for his food; and whereas the abuse of that dominion by cruel and oppressive treatment of such animals, is not only highly unjust and immoral, but most pernicious in its example, having an evident tendency to harden the heart against the natural feelings of humanity.<sup>6</sup>

The House of Lords passed the bill unanimously, but it was defeated in the House of Commons.<sup>7</sup>

That same year, a group in Liverpool formed the Society for Preventing Wanton Cruelty to Brute

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<sup>6</sup> Pearson, *The Rights of the Defenseless*, 227.

<sup>7</sup> Carson, *Men, Beasts, and Gods*, 49.

Animals. In a twenty-one page statement explaining the founding, the members argued a point very similar to Erskine's: "Oppression of those who cannot complain, and have no means of redress or revenge, has something in it peculiarly abhorrent to the nature of every generous and enlightened mind: inasmuch as it savours strongly of cowardice, and cannot urge in its justification those provocations which excite the enmity of one man against the other."<sup>8</sup> Founding members of the American humane movement also made this argument. George T. Angell, founder of the MSPCA, often noted in his lectures that children who committed acts of cruelty against animals often went on to commit acts of violence against humans.<sup>9</sup> Caroline Earle White, founder of the American Anti-Vivisection Society, also claimed, "cruelty to animals, unchecked, leads to commission of the most revolting crimes." She called for the expansion of humane education, which, she believed, "creates in their minds a respect and regard for life *per se* and there is little danger that a child brought up in this manner will ever become a murderer."<sup>10</sup>

The argument embedded in *Four Stages* and in nineteenth-century humane discourse became embedded in law. Anti-cruelty laws were designed by animal advocates to lessen the suffering of animals, certainly, but public debate surrounding the laws was filled with claims about animal cruelty and its connection to interpersonal violence. For animal advocates, anti-cruelty laws would protect animals from suffering, but for many of the legislators who voted on the laws, for police and prosecutors who would enforce them, and for the citizens newly governed by them, these laws against cruelty would protect humans from each other. (Hence, most early anti-cruelty laws were found in chapters of the criminal code entitled, "Of Offenses Against Chastity, Decency, and

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<sup>8</sup> *Report of the Society for Preventing Wanton Cruelty to Brute Animals. Instituted at Liverpool, October 25, 1809* (Liverpool: 1809).

<sup>9</sup> George T. Angell, *Autobiographical Sketches and Personal Reflections* (Boston: American Humane Education Society, 1892), 5.

<sup>10</sup> *First Annual Report of the Women's Branch of the PSCA* (Philadelphia, 1871), 10 and Jane Campbell, "Mrs. Caroline Early White, Reformer," *Records of the American Catholic Historical Society* 33 (March 1922): 41-42.

Morality.”<sup>11</sup> When individuals were prosecuted for cruelty to animals, it revealed how the ethic of inward government combined with sentimental culture to shape animal law around the social dangers posed by inappropriate human feelings and behaviors. In 1862, for example, a New Hampshire judge found the term “malicious” key in determining whether the beating of a horse violated the state’s anti-cruelty statute. Whereas a beating might be used to chastise a horse for poor behavior, and therefore played a part in training, “malicious” violence against an animal was of a different sort, in the court’s opinion: “the beating and needless infliction of pain, which is dictated by a cruel disposition; by violent passions, a spirit of revenge, or reckless indifference to the suffering of others.” The judge warned that beatings which began as chastisement could, if one did not “keep guard over the passions” become “an unmanly and malicious crime.” According to the judge’s reasoning, the statute was not intended to legislate degrees of animal suffering, but rather the emotional state of the person inducing the suffering. It regulated cruel dispositions, violent passions, and spirits of revenge.<sup>12</sup> Other decisions employed similar reasoning. In 1881, an Arkansas judge ruled on a case involving the killing of a pig. Commenting on the value of anti-cruelty statutes, he wrote that they “may be found useful in elevating humanity, by enlargement of its sympathy with all God’s creatures, and thus society may be improved.”<sup>13</sup> In 1931, a Massachusetts court affirmed that trapping animals could “have a tendency to dull humanitarian feelings and to corrupt the morals of those who observe or have knowledge of those acts.”<sup>14</sup>

Animal advocates had found a persuasive argument for protecting animals: what was good for them was good for us. Drawing on an argument with centuries of history behind it, reframed at a

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<sup>11</sup> David Favre, *Animal Law: Welfare, Interests, and Rights* (New York: Aspen, 2008), 208. See also Favre and Tsang, “The Development of Anti-Cruelty Laws During the 1800s,” (1993).

<sup>12</sup> *State v. Avery*, 44 N.H. 393 (1862). Favre, *Animal Law*, 223-225.

<sup>13</sup> *Grise v. State*, 37 Ark. 256 (1881).

<sup>14</sup> *Commonwealth v. Higgins*, 178 N.E. 536, 538 (1931). See Mark Bernstein, *Without a Tear: Our Tragic Relationship with Animals* (Chicago: University of Illinois Press, 2004), 151.

cultural moment when it made a great deal of sense, animal advocates convinced the American public and state legislatures that human and animal interests met at the level of criminal justice. Its rhetorical persuasiveness and effective mobilization by animal advocates helped get anti-cruelty statutes passed across the United States—laws that remain the basis for most legal protection for animals in this country. For most of this time, into the early decades of the twentieth century, the argument gained its authority from popular, sentimental ideas about the relationship between inner life and external behavior. In modern America, this argument about human cruelty would find new forms of authority; achieve new persuasiveness; become charged with new meanings; and, eventually, find a new life with animal advocates, deployed, as it once had been, in a nationwide campaign to raise those same anti-cruelty statutes to felony levels.

In the 1960s, this argument about morals and feelings would enter the realm of social science and professionalized law enforcement, where researchers in psychiatry and specialized criminal investigators, armed with new tools of inquiry and investigation into human behavior, would reshape and invest with new authority an argument that animal advocates had been making since the days of Hogarth's plates. These researchers and investigators were not particularly interested in animal suffering, but they were interested in predicting crime. Their research on animal cruelty and human violence, therefore, sought to quantify and validate the age-old belief that hurting animals made someone more likely to hurt people. They even gave that belief a new name: "the link," short for the link between animal cruelty and interpersonal violence. (The link would eventually become The Link®, a registered trademark of the American Humane Association.) The modern version of this old idea helped make sense of another modern problem: the serial murderer. Popular narratives, some of them written by criminal profilers at the Federal Bureau of Investigation's Behavioral Science Unit, broadly disseminated the link to the American public, arming animal advocates with a powerful argument that was both old and new. By the early 1990s,

animal advocates in the U.S. were seeking to strengthen the anti-cruelty laws that had been put in place by their predecessors. By deploying the link, they were using a modern version of the same argument their predecessors had used to put those laws in place. Drawing on decades of research by psychologists and criminologists, and on popular narratives of serial murder, these advocates used the newly framed link as their main persuasive tool in a national campaign to elevated anti-cruelty statutes to felony levels.

This chapter tells that history, during which the link has done a great deal of social and cultural work, shaping ideas about human nature, influencing American law and policy, and defining the thing we call “cruelty to animals.” It has helped the public comprehend violence and those who commit it. It has helped protect animals in a period when animal advocacy has thrived but the daily lives of most animals have been left unimproved and legally unprotected. It has created cultural meanings about who gets fully included in our society—about identifying those people who might be “inhuman” by focusing on behaviors toward animals that we consider “inhumane.” And it has established the very meaning of the term “cruelty to animals” in the context of modern knowledge, modern violence, and modern advocacy.

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Cruelty to animals, as a structuring concept and as a criminal practice, underwent a modern transformation in the United States beginning in the 1960s, all the while retaining its core assumption that animal cruelty presaged human violence. Researchers in the fields of childhood development (a medical field that became board certified in 1959), clinical and forensic psychiatry, and criminal pathology, sought to prove definitively whether animal cruelty led to interpersonal violence: information they thought might be vital for understanding and policing human violence. Focusing their attention primarily on violent offenders in adult prison populations, many of these researchers thought their data supported the link. Others thought not. If they disagreed about their

conclusions, researchers all shared an attraction to the elusive possibility that a single behavioral trait might help clinicians and law enforcement identify violent offenders before, as true crime writers might put it, “it’s too late.” In the process, they invested this very old idea with new evidence, authority, and cultural meaning.

In 1963, J.M. Macdonald, a renowned forensic psychiatrist, published his landmark article, “The Threat to Kill,” in the *American Journal of Psychiatry*. The article drew on his clinical experience with patients at the Colorado Psychopathic Hospital in Denver, Colorado.<sup>15</sup> Macdonald had noticed a pattern. Many of his most dangerous patients reported having abused animals in the past. One man repeatedly harassed his wife by telling her a story of having helped birth a calf “by hitching the cow to a post and tying a rope from the presenting legs of the calf to his tractor. He gunned the motor and eviscerated the cow.” Another man “once tossed his child’s pet kitten among his dogs while they were fighting with fatal outcome.”<sup>16</sup> “In the very sadistic patients,” Macdonald wrote, “the triad of childhood cruelty to animals, firesetting and enuresis was often encountered.”<sup>17</sup> The “Macdonald triad,” as it became known, was not quantified, plotted on charts, or investigated in any way. It was just something that Macdonald had noticed among many of his patients. A later study would call his findings, “impressionistic.”<sup>18</sup> It was an impression perhaps unconsciously rooted in centuries of impressions about the meanings of human cruelty and animal suffering.

Macdonald’s impression sparked dozens of imitations over the next decades among researchers in childhood development, psychology, and criminology who all wanted to answer the same question about animal cruelty and human violence: could Macdonald’s clinical impression be

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<sup>15</sup> John M. Macdonald, “The Threat to Kill,” *American Journal of Psychiatry*, vol. 120, no. 2 (1963): 125-130.

<sup>16</sup> Ibid, 126.

<sup>17</sup> Ibid, 127. “Enuresis” is bed-wetting.

<sup>18</sup> Alan Felthous and Harold Bernard, “Enuresis, Firesetting, and Cruelty to Animals: The Significance of Two Thirds of This Triad,” *Forensic Sciences*, vol. 24, no. 1 (1979), 240.

predictive? Did a history of violence toward animals make it statistically more likely that the same person would go on to commit violent crimes against people? Daniel Hellman and Nathan Blackman were the first researchers to quantify the problem. Between September 1963 and July 1964, they examined eighty-four patients admitted to the Social Maladjustment Study Unit at the Malcolm Bliss Psychiatric Hospital in St. Louis, Missouri.<sup>19</sup> The facility received most of its patients from courts, parole officers, and jails. Hellman and Blackman divided the patients into two groups: violent and non-violent offenders. They found that twenty-three out of thirty-one violent offenders had full or partial histories of the Macdonald triad. Of fifty-three non-violent offenders, seven had full histories of the triad and eight had partial histories. Sixteen violent offenders had been cruel to animals, whereas only nine non-violent offenders had been. Hellman and Blackman thought the results established gradation both within the triad itself and from the triad toward interpersonal violence. Here's how the violent gradation worked, according to their interpretation of the data: violent children began with bedwetting and its associated "phantasies of destruction through the act of voiding." From there, "the child proceeds to the active destruction of fire with its magical omnipotence and then direct violence against good animals." Things would worsen until the person would redirect those violent, anti-social impulses toward other people. "The consequence of this childhood pattern will continue to be one of violent aggressive behavior toward society," they reasoned.<sup>20</sup> Like Macdonald's "The Threat To Kill," which had appeared three years earlier, Hellman and Blackman's findings were published in the *American Journal of Psychiatry*. The subtitle of their article made clear that their findings were more than impressions. It called the triad "predictive of adult crime."

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<sup>19</sup> Daniel S. Hellman and Nathan Blackman, "Enuresis, Firesetting and Cruelty to Animals: A Triad Predictive of Adult Crime," *American Journal of Psychiatry* 122 (1966): 1431-1435.

<sup>20</sup> Ibid, 1434.

Hellman and Blackman's work was an early attempt to quantify the predictive relationship between animal cruelty and human violence, and subsequent studies sought to replicate the findings. They worked with different communities and methods, and reached many different conclusions. A snapshot overview of the body of research that developed over the decades that followed: In 1971, Fernando Tapia reviewed eighteen clinical files from the University of Missouri's School of Medicine. He followed up on that study in 1977, checking the status of the eighteen individuals profiled six years earlier.<sup>21</sup> In 1974, Blair Justice, Rita Justice, and Irvin Kraft interviewed 779 individuals in "25 professions having contact with troubled youths" to get their impressions on the predictive value of the triad.<sup>22</sup> That same year, Douglas Wax and Victor Haddox examined case histories of six adolescent males who had been referred to the Southern California Youth Authority. All had histories of the triad.<sup>23</sup> Between 1977 and 1987, Alan Felthous published several studies that increasingly focused on animal cruelty, a focus that seemed to influence other researchers to also de-emphasize fire-setting and bedwetting. In a 1985 study, he and co-author Stephen Kellert, who has written extensively on attitudes toward animals, compared histories of animal cruelty in criminal and non-criminal populations, interviewing a control population as well as convicts at federal prisons in Leavenworth, Kansas and in Danbury, Connecticut.<sup>24</sup> There was a lull in research from 1987

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<sup>21</sup> Fernando Tapia, "Children Who Are Cruel to Animals," *Child Psychiatry and Human Development* vol. 2, no. 2 (1971): 70-77; and John Rigdon and Fernando Tapia, "Children Who Are Cruel to Animals: A Follow-Up Study," *Journal of Operational Psychiatry*, vol. 8, no. 1 (1977): 27-36.

<sup>22</sup> Blair Justice, Rita Justice, and Irvin Kraft, "Early Warning Signs of Violence: Is a Triad Enough?" *American Journal of Psychiatry*, vol. 131, no. 4 (1974): 457-459.

<sup>23</sup> Douglas E. Wax and Victor Haddox, "Enuresis, Fire Setting and Animal Cruelty in Male Adolescent Delinquents: A Triad Predictive of Violent Behavior," *The Journal of Psychiatry and Law* (1974): 45-71; and "Enuresis, Firesetting, and Animal Cruelty: A Useful Danger Signal in Predicting Vulnerability of Adolescent Males to Assaultive Behavior," *Child Psychiatry and Human Development*, vol. 4, no. 3 (1974): 151-156.

<sup>24</sup> Alan Felthous and Bernard Yudowitz, "Approaching a Comparative Typology of Assaultive Female Offenders," *Psychiatry*, vol. 40, no. 3 (1977): 270-276; Alan Felthous, "Childhood Antecedents of Aggressive Behaviors in Male Psychiatric Patients," *Bulletin of the American Academy of Psychiatry and the Law*, vol. 8, no. 1 (1979): 104-110; Alan Felthous and Harold Bernard, "Enuresis, Firesetting, and Cruelty to Animals: The Significance of Two Thirds of This Triad," *Forensic Sciences*, vol. 29, no. 1 (1979): 240-246; Alan Felthous, "Aggression Against Cats, Dogs and People," *Child*



through the early 1990s until 1995, when Kathleen Heide interviewed 90 violent and non-violent offenders in the Florida Department of Corrections. (That study was not published until 2004).<sup>25</sup> Karla Miller and John Knutson performed one of the most interesting studies of this kind when, in 1997, they compared histories of animal cruelty in a prison population to those of university students.<sup>26</sup> Arnold Arluke, Jack Levin, Carter Luke, and Frank Ascione examined criminal records of 153 animal abusers who had come to the attention of the Massachusetts Society for the Prevention of Cruelty to Animals. They compared their criminal histories to those of 153 control subjects, each of whom matched a criminal subject in age, gender, and socioeconomic status. In many cases, they used criminal and control subjects who had grown up on the same street in the same neighborhood.<sup>27</sup> Studies have continued into the twenty-first century. Most recently, in 2007, Suzanne Goodney Lea interviewed 570 people living in Bloomington, Indiana with an intentional oversampling of antisocial personality types.<sup>28</sup> More studies are, no doubt, on the way.

In the 1990s, animal advocates began to marshal this research to make claims about the importance of strict anti-cruelty laws, even if the research findings themselves did not suggest broad

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*Psychiatry and Human Development*, vol. 10, no 3 (1980): 169-177; Alan Felthous, "Cruelty to Cats, Dogs and Other Animals," *Bulletin of the American Academy of Psychiatry and the Law*, vol. 9, no. 1 (1981): 48-53; Stephen R. Kellert and Alan R. Felthous, "Childhood Cruelty Toward Animals Among Criminals and Noncriminals," *Human Relations* 38 (1985): 1113-1129; Alan Felthous and Stephen Kellert, "Childhood Cruelty to Animals and Later Aggression Against People: A Review," *The American Journal of Psychiatry*, vol. 144, no. 6 (1987): 710-717; Alan Felthous and Stephen Kellert, "Psychosocial Aspects of Selecting Animals Species for Physical Abuse," *Journal of Forensic Sciences*, vol. 32, no. 6 (1987): 1713-1723.

<sup>25</sup> Linda Merz-Perez and Kathleen M. Heide, *Animal Cruelty: Pathway to Violence Against People* (Walnut Creek, CA: AltaMira, 2004).

<sup>26</sup> Karla S. Miller and John F. Knutson, "Reports of Severe Physical Punishment and Exposure to Animal Cruelty by Inmates Convicted of Felonies and by University Students," *Child Abuse and Neglect*, vol. 21, no. 1 (1997): 59-82.

<sup>27</sup> Arnold Arluke, Jack Levin, Carter Luke, and Frank Ascione, "The Relationship of Animal Abuse to Violence and Other Forms of Antisocial Behavior," *Journal of Interpersonal Violence*, vol. 14, no. 9 (1999): 963-975. This study reveals how this sort of research became entangled in advocacy. Carter Luke is, as of this writing, the director of the MSPCA. Arluke and Ascione, both academics, are also animal advocates.

<sup>28</sup> Suzanne R. Goodney Lea, *Delinquency and Animal Cruelty: Myths and Realities About Social Pathology*, (New York: LFB, 2007).

consensus about the link between animal cruelty and human violence. Many of these authors found a connection varying in strength from associative to predictive. Wax and Haddox (1974) concluded that the Macdonald triad “signals those adolescents, who for apparent reason of failure in personality development, are at highest risk of acting in a violent, murderous fashion.” To them, animal cruelty, especially, seemed “symptomatic of the degree to which the physical suffering of vulnerable and weak objects” motivated the violent impulses of dangerous adolescents.<sup>29</sup> Felthous’ many studies from the late 1970s through the late 1980s also found support for the link. In 1979, he found that many of the most aggressive individuals he had interviewed lacked a history of the full triad, but that “a history of two thirds of the triad is significantly associated with aggressive behaviors directed against people.”<sup>30</sup> The next year, in a separate study that involved ranking psychiatric patients on a scale of aggressiveness, he found that animal cruelty correlated with “higher levels of aggressiveness against people.”<sup>31</sup> In 1985, he similarly ranked a group of prisoners and found an “inordinately high frequency of childhood animal cruelties among aggressive criminals.”<sup>32</sup> Frequency, correlations, symptoms, signals—these were ways researchers described what seemed, but could not be proven to be a connection between violence toward animals and later violence toward humans.

Other studies argued that frequency, correlation, symptoms, signals, and associations were not strong enough to prove that the link was predictive. Fernando Tapia, in a 1971 study that addressed Hellman’s and Blackman’s findings, put animal cruelty in the context of other destructive

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<sup>29</sup> Wax and Haddox, “Enuresis, Fire Setting, and Animal Cruelty in Male Adolescent Delinquents: A Triad Predictive of Violent Behavior,” 68.

<sup>30</sup> Felthous and Bernard, “Enuresis, Firesetting, and Cruelty to Animals: The Significance of Two Thirds of This Triad,” 245.

<sup>31</sup> Felthous, “Aggression Against Cats, Dogs and People,” 171.

<sup>32</sup> Kellert and Felthous, “Childhood Cruelty Toward Animals Among Criminals and Noncriminals,” 1119.

behaviors. Tapia found that almost all children who were cruel to animals were likely to have other behavioral problems, including: aggression toward siblings; early and seemingly unnatural interest in sex; hoarding; learning problems; eating disorders; insensitivity to pain; bullying; and stealing. “It would seem,” Tapia wrote, “that seldom is the symptom of cruelty to animals an isolated problem in the child.”<sup>33</sup> According to Tapia, animal cruelty was part of a larger nexus of problem behaviors. No single behavior could be isolated as uniquely predictive of violent crime.

Many studies after Tapia’s made the same argument: animal cruelty was a problem behavior, but not singularly predictive of future violence. Blair Justice, Rita Justice, and Irvin Kraft found little reason to privilege the triad over other problem behaviors in a 1974 article, in which they asked, “Is a Triad Enough?” According to the authors, by 1974 the triad had already received “fairly widespread acceptance as being predictive of individual violence in childhood.” In their interviews with 779 counseling and psychiatric professionals, they found that triadic behaviors came up infrequently. Much more often, professionals noted fighting, temper tantrums, and feelings of “aloneness” in case histories of violent youths.<sup>34</sup> Even Felthous, considered by subsequent researchers to have supported the link, tempered many of his claims over the ten-year course of his research. From the very beginning, he questioned the value of the full Macdonald triad, arguing instead that the behaviors most likely to anticipate interpersonal violence were fights that resulted in injury, frequent headaches, killing dogs or cats, and school suspensions.<sup>35</sup> He stood behind the value of animal cruelty as a behavioral predictor, but advised that clinicians not overlook other symptoms. His own triad, which he claimed had “greater theoretical and diagnostic value” than the Macdonald triad, included “(1) parental brutality, (2) aggressive behaviors directed against nonhuman objects,

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<sup>33</sup> Tapia, “Children Who Are Cruel to Animals,” 71.

<sup>34</sup> Justice, Justice, and Kraft, “Early-Warning Signs of Violence,” 457-458.

<sup>35</sup> Felthous, “Childhood Antecedents of Aggressive Behaviors in Male Psychiatric Patients,” 107.

and (3) aggressive behaviors directed against people.”<sup>36</sup>

Perhaps more relevant than the actual findings of these studies is how they manifested in new ways a deep-seated assumption about human nature, one traceable through much of western intellectual history. Cruelty to animals had long been conceptually valuable for men and women who were trying to make sense of themselves, of their communities, and of threats to peaceable living. These researchers were after something similar. They may not have found agreement, but they were all animated by the possibility that incidents of animal cruelty could actually help law enforcement and clinical psychiatrists to predict crime before it happened, just as men and women in the past thought it could reveal a cruel disposition growing inside a person, hidden from public view. Hellman and Blackman, for example, noted in 1966, “the importance of predictive factors and early detection or prevention of criminal behavior is paramount.”<sup>37</sup> Whether the job of parents, teachers, counselors, doctors, or police officers, “the detection and early management of children in the throes of the triad,” the authors wrote, “might well forestall a career of violent crime.”<sup>38</sup>

The possibility of criminal prediction seemed all the more alluring in period in American history that saw rising murder rates and increasing public concern about violent crime. Several authors—skeptics and defends of the link alike—wrote that their studies were motivated by precisely these factors. “Criminal homicide arouses great public concern,” Macdonald began his landmark article.<sup>39</sup> Three years later, in 1966, Hellman and Blackman were even more alarmed by what they saw developing around them. “The frustrations of an ever-changing, complex society,” they wrote, “have created tensions and a tendency to explosive aggressiveness of increasing intensity

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<sup>36</sup> Felthous and Bernard, “Enuresis, Firesetting, and Cruelty to Animals,” 245.

<sup>37</sup> Hellman and Blackman, “Enuresis, Firesetting and Cruelty to Animals,” 1431.

<sup>38</sup> Ibid, 1434.

<sup>39</sup> Macdonald, “The Threat to Kill,” 125.

alarming to our rapidly expanding urban society.” This new world required new, predictive tools for dealing with violence.<sup>40</sup> New knowledge about human behavior and the makings of violence seemed ever more necessary in the 1980s, when American mass media began to devote extended coverage to serial murder. Serial killers were the most visible and terrifying symbols of a society that seemed to be entering a downward spiral of violence. Cruelty to animals, long used to create meanings out of human violence, was used to create new meanings out of a seemingly new form of human violence. Felthous and Kellert justified studying the link in part because “some of the most notorious mass and multiple murderers, historically and in recent years, reportedly had behavioral patterns of excessive cruelty to animals in childhood.”<sup>41</sup> And in the late 1990s, Arnold Arluke and his co-authors also pointed to serial killers as an explanation of why the link remained relevant. “The graduation hypothesis,” they wrote, “has been presumably supported by anecdotal stories of animal torture in the early lives of serial killers.” More generally, they recognized that the link was “an appealing model for many individuals interested in combating violence in society. Finding a single magic bullet would increase the possibility for intervention and prevention of violence.”<sup>42</sup>

Researchers studying the link limited themselves to interpreting data. They did not fancy themselves crime fighters. None made recommendations for how law enforcement should apply their findings. An editor of the *Journal of Psychiatry and Law* was less restrained, though, and made explicit the stakes of this research for shaping law enforcement policies. In a preface to Wax’s and Haddox’s “Enuresis, Fire Setting, and Animal Cruelty in Male Adolescent Delinquents” (1974), the anonymous editor argued for a wholesale restructuring of the criminal justice system based on the predictive value of the authors’ findings. “We (i.e. psychiatrists),” the author claimed, “possess

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<sup>40</sup> Hellman and Blackman, “Enuresis, Firesetting and Cruelty to Animals,” 1431.

<sup>41</sup> Felthous and Kellert, “Childhood Cruelty to Animals and Later Aggression Against People,” 710.

<sup>42</sup> Arluke, Levine, Luke, and Ascione, “The Relationship of Animal Abuse to Violence and Other Forms of Antisocial Behavior,” 970.

enough data to make some pertinent assessments of probabilities of future behavior based on sound dynamic understandings of the course and consequence of the aggressive drives.” So accurate were those predictive behaviors—the Macdonald triad, generally, and judging from the emphasis of Wax’s and Haddox’s article, cruelty to animals in particular—that perhaps legal action could be taken earlier in cases that would undoubtedly lead to violence against people. “It is here,” the author argued, “that our legal confreres must abandon their resistance against using this knowledge for the purpose of reshaping the legal principles regarding confinement and proper restraint.” If psychiatrists and law enforcement could predict violence, why wait for the inevitable before intervening? Of course, to some people, the notion would be anathema: “The legal idealism has been to persevere in the notion that one’s personal liberty is an inalienable right granted to all citizens.” Perhaps that legal idealism needed to be tempered with some legal realism, the editor thought, with psychiatrists and law enforcement collaborating to create a new framework of crime and punishment. “It is in the area of confinement and restraint that the law and psychiatry can meet,” the anonymous editor maintained: “the judicious use of psychiatric opinion in the particular case where personal liberty has to be weighed against possible danger to the community at large.”<sup>43</sup>

This extreme position didn’t seem to attract many followers, although its specter troubled researchers. From the beginning, some were concerned about the implications of claiming that any one behavior might be predictive of violent crime. Wax and Haddox, despite the words of their editor at the *Journal of Psychiatry and Law* and despite their own findings, were reluctant to endorse any practical application, pointing to a long history of failed and misguided efforts to predict violent crime. “Various social sciences have long struggled with issues concerning behavioral prediction,” they wrote in an article for *Child Psychiatry and Human Development*. The applied behavioral sciences “have often seized upon concepts such as psychological test profile, body type correlates and even

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<sup>43</sup> Preface to Wax and Haddox, “Enuresis, Fire Setting, and Animal Cruelty in Male Adolescent Delinquents,” 46.

genetic variance such as the XYY phenomenon in the hope that such notions might be of use in predicting potentially dangerous individuals.” Even as they argued for the predictive value of this new triadic instrument, they warned, “the fate of such attempts at prediction should be kept in mind by anyone describing further such instruments.”<sup>44</sup> Meanwhile, there were hints of concern about what seemed to be rapidly developing clinical consensus on the topic. In 1974, the Justices and Kraft noted, with a hint of perplexity: “in the field of psychiatry a triad of childhood symptoms—enuresis, firesetting, cruelty to animals—has had fairly widespread acceptance as being predictive of individual violence in adulthood.”<sup>45</sup>

After that observation in 1974, several things happened that confirmed the peculiar status of animal cruelty as a special-case behavior that predictive of violent crime. On the clinical end of things, studies continued, and in 1987, “cruelty to animals” was included for the first time in the third edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R), the main diagnostic manual used by psychiatric professionals.<sup>46</sup> (It was, however, listed as an indicator of Conduct Disorder, *not* a predictor of violent crime.) On the public side of things, two developments validated, popularized, and disseminated the link. First, true crime narratives and media stories about serial killers—most notably David Berkowitz, Ted Bundy, and Jeffrey Dahmer—brought the link from the margins of psychiatric research to the center of popular discourse around serial killers. And second, beginning in the early 1990s, animal advocacy groups seized on both strands—the clinical and the popular—in order to argue that state anti-cruelty laws should punish acts of animal cruelty as felonies, not as misdemeanors. In the process, broad popular consensus developed about the predictive value of cruelty to animals—a consensus based on the findings of select studies, on

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<sup>44</sup> Wax and Haddox, “Enuresis, Firesetting, and Animal Cruelty,” *Child Psychiatry and Human Development*, 152.

<sup>45</sup> Justice, Justice, and Kraft, “Early-Warning Signs of Violence,” 457.

<sup>46</sup> Frank Ascione, *Children and Animals: Exploring the Roots of Kindness and Cruelty* (West Lafayette, IN: Purdue UP, 2005), 31.

anecdotal evidence about the lives of serial killers, on animal advocacy campaigns, and on an ingrained popular understanding of cruelty that drew on much older moral reasoning and sentimental discourse.

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Research on cruelty to animals and the Macdonald triad did indeed come during a period of increased violence in the United States. In 1955, the murder rate was just 4.5 per 100,000 persons. By 1974 it was 10.2 per 100,000. It remained high, averaging over nine murders per 100,000 in subsequent years, but continued to fluctuate, reaching a high of 10.7 in 1980 and a low of 8.3 in 1985.<sup>47</sup> It's no surprise that researchers considered the link a pressing area of study, given the warnings issued by government officials in the 1980s. "Something insidious has happened in America," L.H. Herrington, the Chairperson of the President's Task Force on Victims, said in 1982. "Crime has made victims of us all. Awareness of its danger affects the way we think, where we live, where we go, what we buy, how we raise our children, and the quality of our lives as we age. The specter of violent crime and the knowledge that, without warning, any person can be attacked or crippled, robbed, or killed, lurks at the fringes of consciousness."<sup>48</sup> Philip Hicks, then chief psychiatrist at California's prison in San Quentin, wrote in 1988, "America is in the midst of an increasing crescendo of violence, affecting every element of society."<sup>49</sup> And in 1993, then Senator Joe Biden gave a speech to the Wilmington County Rotary club in which he claimed: "The United States is the most dangerous country in the world."<sup>50</sup>

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<sup>47</sup> Roger Lane, *Murder in America: A History* (Columbus: Ohio State UP, 1997), 303. Lane also provides an excellent chart on p. 308. Internationally, no other developed nation has boasted a murder rate above 3 per 100,000 persons in recent decades.

<sup>48</sup> L.H. Harrington, *Final Report of the President's Task Force on Victims of Crime* (Washington, DC: The White House, 1982), vi.

<sup>49</sup> Philip Hicks, "Preface," in Joel Norris, *Serial Killers: A Growing Menace* (New York: Doubleday, 1988), vii.

<sup>50</sup> Lane, *Murder in America*, 304.



Beginning in the 1970s, serial killers came to represent this violent threat in a particularly frightening form, and it was the popular ascent of the serial killer that brought the link to American culture. Rising American homicide rates said a lot more about deindustrialization and deregulation, class stratification and joblessness, easy access to guns, and a growing drug economy than it did about serial killers, of course. But it was still serial killers who filled headlines and headlined newscasts. The 1970s and 1980s were the heydays of serial homicide. The Zodiac Killer, David Berkowitz, John Wayne Gacy, Ted Bundy, the Green River Killer, Henry Lee Lucas: these were the stars, and their crimes and trials attracted extensive press coverage. There were dozens of other, less-known serial killers operating during this period, too. Serial killers were the perfect villains for a period in which conservative leaders blamed social problems on individual behavior and personal deficiencies, not on institutional or systemic problems like poverty or racism. As Ronald Reagan argued in 1981, “The solution to the crime problem will not be found in the social worker’s files, the psychiatrist’s notes, or the bureaucrat’s budget; it’s a problem of the human heart, and it’s there we must look for the answer.”<sup>51</sup> With murder rates climbing, the federal government acknowledging a violent crime epidemic, national media creating a sensational feedback loop of fear, and serial killers became emblems of a modern America plagued less by social ills than by personal evil. Investigating that personal evil, that “human heart,” meant thinking about human nature and about the nature of human cruelty—an investigation that reanimated historical ideas about cruelty to animals that were just then being reshaped, ironically, in the notes of psychiatrists and in the files of social workers.

In the early 1970s, the FBI began developing their Behavioral Science Unit at the FBI Academy in Quantico, Virginia. The unit was made up of special agents trained to deal with precisely these sorts of killers, and together, they developed the regime of criminal profiling made famous in

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<sup>51</sup> Quoted in Philip Jenkins, *Using Murder: The Social Construction of Serial Homicide* (New York: Aldine de Gruyter, 1994), 10.

the 1990s by *Silence of the Lambs* and by countless television crime dramas.<sup>52</sup> Agents at the BSU were the ones who introduced “serial killer” to the popular vocabulary: these two words, incisive and chilling, gave a name to a cohort of murders known for their sadism, lack of empathy, and cunning, and whose crimes were documented by the increasingly sensational national media.<sup>53</sup> BSU agents were charged with creating new tools of investigation in order to catch a cohort that was proving difficult to predict and apprehend. Joel Norris, a forensic psychologist turned crime writer, summed up the frustrations of serial murder investigation in his 1988 study *Serial Killers: The Growing Menace*:

Almost impossible to capture, diagnose, or predict using ordinary investigative methods and perversely attracted to the police who are pursuing them, serial murderers dance just beyond their pursuers’ reach from state to state, retreating into the background, then springing up again in a different part of the country to begin another series of seemingly motiveless killing.<sup>54</sup>

Elusive and cunning, serial killers seemed to render useless the investigative tools at the FBI’s disposal. The FBI and their agents needed to pursue other methods, and they turned precisely to the social worker’s files and the psychiatrist’s notes to catch men whose problems, indeed, seemed problems of the human heart. The BSU asked questions such as: Were these men the products of environmental factors like poverty, parental abuse, or neurological damage? Were they the inevitable products of a genetic variation? Absent a clear motive or relationship between killer and victim, was it possible to work backward from a set of criminal patterns and behaviors, a *modus operandi* (M.O.), to a certain type of individual? Last, and, arguable most important, were there signs or behaviors that might indicate that a child or adolescent was developing into a serial killer?

Many of these questions were the same ones that clinical and academic psychologists were asking during the same period, and the agents at the BSU went about studying serial killers in a way

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<sup>52</sup> Ibid, 101; Jenkins, *Using Murder*, 58. Other institutional support came from the National Center for Missing and Exploited Children, which began operating in 1984, as well as from the National Center for the Analysis of Violent Crime, founded that same year.

<sup>53</sup> Ibid, 31-33.

<sup>54</sup> Ibid, 15.

that paralleled the psychological studies described above. (Anecdotal evidence suggests agents might have been aware of this growing body of work.) Researchers such as Wax and Haddox, Felthous, and Tapia identified groups of violent criminals and used interviews and clinical histories to work backward toward behavioral indicators of violence. Roughly between 1978 and 1983 the FBI was doing precisely the same thing. With a sizeable group of serial killers already in custody, two of the leading agents at the BSU, Robert Ressler and John Douglas, traveled across the United States, interviewing serial killers and reconstructing their life histories with an eye toward shared patterns of behavior and development. Their travels helped develop the serial killer profile now so widely known that it has become a pop culture touchstone. Everyone knows that the average serial killer will be a white male between the ages of 20 and 40 with a high I.Q. and a troubled family history. He will also have tortured animals as a child. Look back through his history and you will find Tom Nero.

Over the course of those five years, Ressler and Douglas interviewed thirty-six incarcerated sexual murderers, most of them serial killers. Seven had murdered just one person, and the remaining twenty-nine were multiple murders, including some of the most notorious serial killers in American history: Edmund Kemper, Charles Manson, and David Berkowitz. In addition to the interviews, Ressler and Douglas examined psychiatric, criminal, and court records before publishing their findings in 1988 in the form of a seminal criminology text, *Sexual Homicide: Patterns and Motives*, which they co-wrote with Ann W. Burgess, a nurse, professor, and expert on sex crime.<sup>55</sup> Ressler,

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<sup>55</sup> John Douglas and Mark Olshaker, *Mindhunter: Inside the FBI's Elite Serial Crime Unit* (New York: Scribner, 1995), 148. Douglas describes his interviews in some detail on pages 112 through 122; Robert K. Ressler, Ann W. Burgess, and John E. Douglas, *Sexual Homicide: Patterns and Motives* (Lexington, MA: Lexington, Books, 1988), xi. Ressler's and Douglas's travels between 1978 and 1983 comprised less a study than a survey. J.M. Macdonad's sample group for "The Threat to Kill" was one hundred. Many other studies of the Link boasted samples of three hundred or more, and in some cases included control groups. That textbook provided the foundation for substantial portions of the *Crime Classification Manual*, a diagnostic manual as important to law enforcement as the *Diagnostic and Statistical Manual of Mental Disorders* has been to psychiatric professionals. Ressler, Douglas, and Burgess published the *Crime Classification Manual* in 1992 and it remains an authoritative text on the investigation of violent crime. (John E. Douglas, Ann W. Burgess, Allen G. Burgess,

Douglas, and Burgess focused primarily on environmental factors, such as parental abuse, but they also gave considerable attention to early behavioral indicators of violence. They included cruelty to animals on a chart of childhood behaviors that included the other two parts of the Macdonald triad, enuresis and firestarting, along with chronic lying, destruction of property, violence toward other children, sleep problems, poor body image, running away, stealing, and feelings of isolation. More than half of the thirty-six murderers reported being cruel to animals as children, and nearly half continued to be cruel to animals as adolescents.<sup>56</sup> The authors found one man's experience especially telling of the possible connection between animal cruelty and interpersonal violence. "My brother and I are running around the yard with sticks chasing the giant blue jay, trying to snuff him out," the man recalled.

He's running around squawking and we've got him wounded and we're trying to kill him before my step dad finds out, because he'd skin us for snuffing his fine feathered friends. And my grandparents were the same way about small furry animals or the feathery animals, so I snuffed everything that flew, when I could get my gun trained on them.

When the killer was fourteen, his grandparents tried to take his gun, "because of indiscriminate shooting behavior." He murdered them both. Ressler, Burgess, and Douglas noted that, in this case history, "the time between the sadistic behavior toward animals and acting out murderous fantasies by killing a person [was] quite short."<sup>57</sup>

The authors determined that animal cruelty served as an important bridge between fantasy and reality—a gateway in the process by which killers graduated from imagined to real violence, and ultimately, to the murder of people. "The early aggressive behaviors may be acted out first toward animals," Ressler, Burgess, and Douglas argued, but those acts would be culminations of years of

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Robert K. Ressler, *Crime Classification Manual: A Standard System for Investigating and Classifying Violent Crime* (San Francisco: Jossey-Bass, Inc., 1992)

<sup>56</sup> Ressler, Burgess, Douglas, *Sexual Homicide*, 29.

<sup>57</sup> Ibid, 38-39.

aggressive thought patterns. “The dominant thinking and play patterns of offenders are very aggressive from childhood through adulthood,” they wrote. “What might appear to us an abrupt change of character in suddenly killing a cat or a person proves to be based on much more conscious and preconscious activity as well as on prior acts.” Killing animals allowed young killers to act out in real life their long-standing fantasies, which would then become “natural and justified acts in their lives.”<sup>58</sup> Inevitably those acts tended toward other people.

The publication of *Sexual Homicide* in 1988 codified in homicide investigation a conception of human cruelty that was well developed by that time among academic and clinical psychiatrists and among the agents at the Behavioral Science Unit—to say nothing of the conception’s standing among animal advocates for the better part of two centuries. Ressler and Douglas wrote memoirs about their careers as BSU investigators, as did Roger Depue, who served as the chief of the BSU beginning in 1979. Each of them discussed cruelty to animals in the context of serial killer profiling. It’s not clear that the link ever helped solve a case or predict a crime, but for BSU agents, the evidence of animal cruelty in a murderer’s past helped construct a narrative of development that made profiling seem like more than mere guesswork and that made serial killers people that could be understood, anticipated, and captured.

To that end, BSU agents-cum-memoirists often delved into the histories of individual killers to show the value of the serial killer profile, and they were sure to identify incidents of cruelty to animals. In *Whoever Fights Monsters* (1992), for example, Robert Ressler emphasized acts of animal cruelty in the young lives of Richard Chase and David Berkowitz. As a special agent with the BSU, Ressler profiled Chase, who was then known in the press as the “Vampire Killer” in the late 1970s. When Chase was finally caught in 1978 after murdering six people in Sacramento, Ressler’s profile was confirmed: Chase grew up in an abusive home; wet the bed until he was eight years old; had a

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<sup>58</sup> Ibid, 39.

slender build (Ressler believed in body type theories); and was abusive toward animals. In his early twenties, he had been committed to a mental institution after attempting to inject rabbit's blood into his veins. According to nurses there, Chase sometimes "bit the heads off birds he had captured in the bushes." He was sometimes found with blood covering his face and his diary was filled with descriptions of "the killing of small animals and the taste of blood."<sup>59</sup> Ressler also emphasized acts of animal abuse committed by David Berkowitz, the "Son of Sam." Ressler interviewed Berkowitz in prison and learned that "earlier in his life, at six or seven, he remembered pouring ammonia into his adoptive mother's fish tank to kill her fish, and spearing them with a pin. He also killed her pet bird with rat poison—he got a thrill out of watching the bird die slowly, and from his mother's anguish at being unable to reverse the illness."

For Ressler, these were more than just stories about the bad things that bad people did to animals as children—they were tools for understanding and profiling killers, albeit tools utilized *ex post facto*. Berkowitz's behaviors, for example, "were control fantasies, involving power over living things."<sup>60</sup> Ressler also elaborated in his memoir on the cruelty-to-animal-as-gateway theory that he posited in *Sexual Homicide*. He again focused on the role of animal cruelty as a key expression of deviant fantasies that form a kind of self-sustaining "loop": "the lonely teenager has aberrant fantasies and tries partially to live these out by tentative antisocial acts—the lie that is not found out, the cruelty to an animal, which does not have any ill effects on his own life; the fire that burns brightly; the frightening of a younger child that is not reported."<sup>61</sup> As he argued in *Sexual Homicide*, abusing an animal was a testing ground in a developmental process leading inexorably from fantasies of violence to actual murder. He also returned to the story of the boy who had shot his grandparents

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<sup>59</sup> Robert K. Ressler and Tom Shachtman, *Whoever Fights Monsters* (New York: St. Martin's, 1992), 12.

<sup>60</sup> *Ibid.*, 70.

<sup>61</sup> *Ibid.*, 87.

after they tried to take his gun. In *Whoever Fights Monsters*, he gave the man's name: Edmund Kemper, who killed ten people between 1964 and 1973. When Kemper's grandparents tried to correct his behavior by taking his gun away, they made a vital mistake, Ressler believed. "They did not ask Kemper what was going on in his head—what his fantasies were—that made him use the gun to kill small animals for the 'fun' of it." Kemper killed his grandparents in order to preserve those fantasies, of which cruelties to animals were the first expressions in reality. "What begins as fantasy," Ressler concluded, "ends as part of a homicidal ritual."<sup>62</sup> Such was Ressler's reasoning with respect to the place of animal cruelty in the serial killer profile.

Another BSU agent, Roger Depue emphasized many of those same points in his own memoir, *Between Good and Evil* (2005). Depue spent over two decades with the FBI, and was chief of the Behavioral Science Unit for half that time, beginning in 1979. Like his colleague Robert Ressler, Depue noted the relationship between fantasy and animal cruelty in the development of serial killers and their crimes. "A little boy might have fantasies of violence," Depue explained. "He might kill small animals or a family pet"; "Over time," he wrote, "the fantasy grows into action."<sup>63</sup> He referred specifically to the findings published in *Sexual Homicide* to justify the importance of cruelty to animals in the serial killer profile. "By self-report, thirty-six percent of those criminals [interviewed for the BSU's study] described killing and torturing animals as children," Depue wrote. "We believed that the real figure was much higher, but some offenders might not have been willing to admit it."<sup>64</sup> He also returned to the story of Edmund Kemper, writing that the killer, as a young man, was "isolated, aggressive, and had tortured animals and buried the family cat alive. The crimes he went on to

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<sup>62</sup> Ibid, 87.

<sup>63</sup> Roger Depue with Susan Schindehette, *Between Good and Evil: A Master Profiler's Hunt for Society's Most Violent Predators* (New York: Warner, 2005), 154.

<sup>64</sup> Ibid, 258.

commit were ghastly, inexcusable.”<sup>65</sup> But Depue offered something Ressler had not—an indication that agents at the BSU may have been aware of the developing body of psychiatric research on the Macdonald triad. “Even before I began in the Behavioral Science Unit,” he wrote, “researchers had already coined the term ‘homicidal triad’ to describe a cluster of behaviors in children—bedwetting, fire setting, and cruelty to animals—that seemed to be a predictor of future homicide behavior.”<sup>66</sup>

John Douglas, too, suggested that agents knew of the studies, although it seems that they arrived at their own findings before making the connection. In *Mindhunter* (1995), he described his interview with Edmund Kemper in 1978. Kemper told Douglas that his mother used to lock him in the basement for long periods of time. During one of those episodes, he killed the two family cats using a pocketknife and a machete. “We would later realize,” Douglas noted, “that this childhood trait of cruelty to small animals was the keystone in what came to be known as the ‘homicidal triad.’”<sup>67</sup> Douglas, like Depue and Ressler, emphasized the element of fantasy in the escalation of violence. “With most sexually based killers, it is a several-step escalation from the fantasy to the reality, often fueled by pornography, morbid experimentation on animals, and cruelty to peers.”<sup>68</sup> All three men, therefore, shared a belief that animal cruelty played a formative and expressive role in a young killer’s development from fantasies of violence to actual murder; they all confirmed the place of the homicidal triad in the serial killer profile; and in the cases of Douglas and Depue, they showed an awareness of the relationship between their own investigative work and the research on the link being carried out by social scientists, psychologists, and other clinical researchers.

Knowledge about the place of cruelty to animals in the serial killer profile entered American

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<sup>65</sup> Ibid, 159.

<sup>66</sup> Ibid, 158.

<sup>67</sup> Douglas and Olshaker, *Mindhunter*, 111.

<sup>68</sup> Ibid, 114.



culture through a variety of popular media. Some of the popularizing came, of course, from the BSU agents themselves. Ressler, Douglas, and Depue each wrote more than one nonfiction book about their careers in law enforcement, and several of those books were bestsellers. (Douglas' *Mindhunter* was a *New York Times* #1 bestseller.) Many other books, though, have cashed in on the market for serial killer stories, and nearly all have highlighted cruelty to animals. If medical, scientific, and investigative authorities were not enough to confirm the predictive value of animal cruelty, the repetition of the link in popular culture was enough to lend it credibility. Just a handful of examples should suggest how popular repetition turned Macdonald's impression into a cultural conviction. Michael Newton's *Hunting Humans: An Encyclopedia of Modern Serial Killers* (1990) referred to an "epidemic of homicidal mania," and counseled: "We have known for years that many future murderers display a tell-tale 'triad' of symptoms—bedwetting, arson, and cruelty to animals—in their childhood years, but parents, teachers, and physicians must be trained to spot the warning signs."<sup>69</sup> In *Killing for Sport* (2003), Pat Brown sought to "teach everyone how to identify predators so we can make our streets safer for all of us." Presented as a series of Frequently Asked Questions about serial murder (such as "are all serial killers white?" and "do serial killers all hate their mothers?"), the book asked, "Do all serial killers have the homicidal triad of bedwetting, firesetting, and animal torture?" Brown tells it this way: "When they do it's really cool. It makes 'em a heap easier to identify as serial killers!" Unfortunately, he notes, not all serial killers "stay true to the 'triad.'"<sup>70</sup> Katherine Ramsland, a professor of forensic science, noted in *Inside the Minds of Serial Killers* (2006) that psychopathic children often "torture animals or other kids, and often they'll exhibit a

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<sup>69</sup> Michael Newton, *Hunting Humans: An Encyclopedia of Modern Serial Killers* (Port Townsend, WA: Loompanics Unlimited, 1990), 2.

<sup>70</sup> Pat Brown, *Killing for Sport: Inside the Minds of Serial Killers* (Beverly Hills, CA: New Millennium Press, 2003), 2, 37-38. Joking aside, Brown does warn that, joking aside, "one certainly should not ignore the FBI findings concerning the homicidal triad if it does show up in a young person, because these behaviors may be the precursor to worse crimes as the child grows up."

fascination with guns and explosives.” Ramsland focused on animal cruelty in the case of John Massey, a twenty-year-old in Texas who committed double homicide in 1993 and who aspired, according to his own words, to kill over 700 people. “After he was caught,” Ramsland noted, “it became clear that throughout the course of his adolescence, he had harbored fantasies of extreme violence, and had killed small animals as practice for what he wanted to become.”<sup>71</sup> These are just three representative examples from a massive body of published literature about serial killers, literature for which the American appetite seems to have no bounds. Beyond that, there have been endless television programs, news stories, and films dedicated to serial killers. The link’s place in the serial killer profile has entered American culture through such *argumentum ad nauseum*.

Actual uses of the profile gave a clue to the function of the animal cruelty link within it. In *Mindhunters*, John Douglas gave an account of the triad in action, one that revealed that its value lay not in the actual prediction of murder, but in the *ex post facto* narration of how that murder came to pass. In 1980, law enforcement in California contacted the FBI in hopes of receiving federal support in their search for a serial killer known as the “Trailside Killer,” who was stalking and murdering women along hiking trails near San Francisco. At the time, Douglas was still working on the research that would become *Sexual Homicide*; the BSU was in its infancy and had not yet worked a national case with significant media attention; and local law enforcement was not yet familiar with the techniques of psychological profiling that BSU agents were developing at Quantico. When Douglas arrived in California, he and local police officers discussed the case and he gave them a profile of the man they were hunting. The “Trailside Killer” would be in his early- to mid-thirties with above-average intelligence and a criminal record. He would be antisocial—not the charismatic Ted Bundy type—and if police were to arrest him and investigate his background, “they’d find a history of bed-wetting, fire-starting, and cruelty to animals, or at least two of the three.” Douglas also predicted that

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<sup>71</sup> Katherine Ramsland, *Inside the Minds of Serial Killers: Why They Kill* (Westport, CT: Praeger, 2006), 122-128.

the killer would have a speech impediment. The local cops were suspicious of Douglas's profile, and he remembered that their body language seemed to say, "this guy's full of shit."<sup>72</sup> In 1981, police arrested a suspect. His name was David Carpenter. An industrial arts instructor at a trade school in San Jose, he had above average intelligence, a stutter, and a history of abuse at the hands of his mother. "His childhood was also marked," Douglas wrote, with a hint of pleasure, "by chronic bed-wetting and cruelty to animals."<sup>73</sup>

Douglas spent a good deal of space in *Mindhunters* detailing how he and other BSU agents developed the methodology of psychological profiling, but this episode presented the utilization of the profile as more a magic trick than police work, awing incredulous gumshoes and proving that FBI profilers were anything but "full of shit." Agents at the BSU found the homicidal triad relevant to the profile, even though these particular behavioral traits were extremely unlikely to actually lead to arrest. David Carpenter did not become a suspect in the case because he abused animals as a child or because he wet the bed until he was old enough for it to seem unusual. He became a suspect because an eyewitness was able to provide enough details for a police sketch, and an acquaintance recognized Carpenter when the sketch appeared in the newspaper. That doesn't make for quite as good a story.

When it came to the place of animal cruelty in the serial killer profile, then, it was the narrative of homicidal development that mattered more than the predictive value. That development narrative became a central theme in popular narratives of serial murders in true crime writing, in fiction and film, and in press coverage of serial homicide. Cruelty to animals played a role in these serial killer narratives that was similar to the one it had played centuries earlier in Hogarth's narrative of Tom Nero's development from an animal-abusing boy to a murdering man. The popularity of

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<sup>72</sup> Douglas and Olshaker, *Mindhunter*, 159.

<sup>73</sup> Ibid, 159.

serial killer narratives disseminated to a modern American audience the belief held by Hogarth and by many, many others throughout western history—that being cruel to an animal made you more likely to be cruel to a person. For BSU agents, animal cruelty was a means of explanation via narration. Even if its investigative function seemed vague, the link helped them to construct a narrative about the development and pathology of killers who were difficult to catch and harder to predict. For the general public, the link had a similar function. Popularized in various media, the link formed the cornerstone of a powerful narrative about how some people turned into murderers while most people did not.

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Animal cruelty signified in the serial killer profile because it signified in narratives of human nature, morality, and evil. The serial killer profile retold in the language of law, criminology, and pathology a version of the story that William Hogarth had told in “The Four Stages of Cruelty” in 1751: a story whereby a murderer’s development could be traced backward in time to identify his progress from animal cruelty to human violence. Hogarth and many other historical commentators on animal cruelty believed that cruelty to animals had a hardening effect on children and adolescents. Children were not born evil—a belief that spread through the Anglo-American world beginning in the late eighteenth century. Their natural innocence needed to be molded and shaped, and learning kindness to animals was part of that shaping. Those assumptions about childhood innocence have persisted in American culture, and some serial killer narratives adopt that perspective. Other times, though, episodes of cruelty to animals in the childhoods of serial killers seem to reveal, rather than cultivate, an *innate* cruelty or evil. (The difference between those two perspectives is slippery.) Regardless, animal cruelty became a key trope, perhaps the key trope, in biographical narratives of serial killers. Researchers, law enforcement, journalists, true crime writers, and biographers all dug into the childhoods of serial killers to find a hint of their futures, and violence toward animals became

recurrent theme in those archaeologies of violence. Once an innocent child, a man becomes a serial killer. But how? “What makes a serial killer?” Joel Norris asked in his 1988 book, *Serial Killers: The Growing Menace*. “What are the roots of this extraordinary violence?”<sup>74</sup> Graham Greene once wrote that “[t]here is always one moment in childhood when a door opens and lets the future in.”<sup>75</sup> Writers seeking to understand the roots of serial murder have followed that maxim to the letter. Helen Morrison, a forensic psychiatrist and serial killer expert even quoted the line in her memoir, *My Life Among the Serial Killers*.<sup>76</sup> To see how the link has functioned in the narratives of serial murder that pervade America culture, I’ll return to the child with whom I began: Jeffrey the boy, who became Jeffrey Dahmer the killer.

In September 1991, Oprah Winfrey hosted an episode of her daytime talk show about the Dahmer case. It was titled, “Are you raising a Jeffrey Dahmer?”<sup>77</sup> The anxiety that Winfrey was tapping into grew out of the simple fact, banal and terrifying at the same time, that Jeffrey Dahmer was once just a child. That reality presented a nightmare scenario for parents concerned about raising children to be health, happy, and, at the very least, not psychopathic. Randall Lockwood, Vice President of Research and Educational Outreach for the Humane Society of the United States, appeared on the show—an example of animal advocates harnessing narratives of serial homicide for their own ends. Lockwood remembered vividly the first time he saw video footage of young Dahmer. “In the film a cute blond boy of about five years old walks a bit awkwardly carrying two sparklers,” Lockwood wrote in 2004. “His smile is bright and cheerful. A dog enters the scene and

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<sup>74</sup> Norris, *Serial Killers*, 16.

<sup>75</sup> Graham Greene, *The Power and the Glory* (1940; New York: Penguin, 2003), 12.

<sup>76</sup> Helen Morrison and Harold Goldberg, *My Life Among the Serial Killers: Inside the Minds of the Worlds Most Notorious Murderers* (New York: Harper Collins, 2004), 172.

<sup>77</sup> Richard Tithecott, *Of Men and Monsters: Jeffrey Dahmer and the Construction of the Serial Killer* (Madison: University of Wisconsin Press, 1997), 40.

gives the boy a friendly sniff. At the end of the film, the boy's father lifts him to his shoulders and carries him off smiling." The image was a typical one in the iconography of American home video, but Lockwood knew that the boy would not grow up to be a typical adult. "The boy in the film," Lockwood wrote simply, knowing that the shock of the scene would be self-evident "is Jeffrey Dahmer."<sup>78</sup>

How did it happen that a bright and cheerful and smiling boy went from carrying sparklers and petting dogs to kidnapping, murdering, and eating people? How does a child become a killer? According to Ressler, there must have been early indications. "Let me state unequivocally," Ressler wrote in *Whoever Fights Monsters*. "There is no such thing as the person who at age thirty-five suddenly changes from being perfectly normal and erupts into totally evil, disruptive, murderous behaviors. The behaviors that are precursors to murder have been present and developing in that person's life for a long, long time—since childhood."<sup>79</sup> In short, as Ressler's profiling purported to demonstrate, there must have been signs—cruelty to animals being one.

Animal cruelty helped shape the narrative of Dahmer's development. Dahmer came from a relatively stable, middle class home. He had two parents, and while his mother suffered from depression, there were few environmental indications that Dahmer would develop the way that he did. Retrospection has produced some behavioral signs, though. Dahmer was an alcoholic from an early age. He found social interaction almost impossible. And like many other serial murderers, Dahmer had a troubled history with animals. Some of his behaviors constituted cruelty to animals (killing animals) and some did not (collecting road kill). After he was arrested, his behavior toward animals interested law enforcement and the American public because it made his crimes less

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<sup>78</sup> Randall Lockwood, "Forward," in Linda Merz-Perez and Kathleen M. Heide, *Animal Cruelty: Pathway to Violence Against People* (Walnut Creek, CA: AltaMira, 2004), ix.

<sup>79</sup> Ressler, *Whoever Fights Monsters*, 74.

random, less terrifying in their unpredictability. His *modus operandi* as a grown killer could be gleaned from his animal-related practices as a child. With both animals and humans, he practiced macabre experimentation, corporeal dismemberment, and preservation of body parts.<sup>80</sup> Some criminologists described Dahmer's cruelty to animals and murder of humans as part of a single "continuum."<sup>81</sup> Dahmer's treatment of animals, therefore, suggested a moment when Jeffrey-the-child revealed himself to be on a developmental path toward Dahmer-the-killer, or, perhaps when he revealed that Jeffrey-the-child and Dahmer-the-killer were already one and the same, depending on your perspective on human nature and evil. It was the moment, in Graham Greene's words, when a door opened and let the future in. It was the moment that those people close to him had missed, a moment that parents following the coverage of his case would be sure not to miss in their own children.

Having missed that moment weighed heavily on Dahmer's father, Lionel. In 2004, CNN's Larry King asked him about the animals. He told King that he and his wife only learned about their son's animal abuses and behaviors at the hearing held to establish whether Jeffrey was competent to stand trial. "If we're going to help people," King asked, "what are some signs?" "If I had known about the road kill, that would have been a red flag," Lionel responded. "I would have done something immediately, intervened."<sup>82</sup> The stories that came out at trial colored Lionel's entire memory of his son's childhood. His memoir, *A Father's Story*, published in 1994, shortly before

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<sup>80</sup> Wright and Hensley, "From Animal Cruelty to Serial Murder: Applying the Graduation Hypothesis," 78.

<sup>81</sup> Linda Merz-Perez and Kathleen M. Heide, for example, claimed that Dahmer's "road kill collection and animal dissections were the beginning of a continuum" and that his "unreconciled anger toward his parents, compounded by his need to control compelled his escalating violence that began with animals and culminated in serial murder." In Dahmer's case, according to them, "a fascination with road kill and the dissection of frogs escalated to include the torturing and killing of cats and dogs and, ultimately, human beings." Merz-Perez and Heide, *Animal Cruelty*, 53, 57, 63.

<sup>82</sup> *Larry King Live*, CNN, June 17, 2004; transcript available at <http://transcripts.cnn.com/transcripts/0406/17/lkl.00.html>; Lionel Dahmer notes in this interview that Dahmer never "tortured" animals, which seems to be right, judging from other accounts. He never took pleasure in acts of sadism toward animals, but did kill cats to experiment on. Statutorily, that constitutes animal cruelty, even if his particular behavior differs from the zoosadism of other serial murderers.

Jeffrey was murdered in prison, was an attempt to work through those memories, knowing what his son had become and figuring their must have been missed clues. Lionel Dahmer could no longer “distinguish the ordinary from the forbidding” when it came to his Jeffrey’s childhood. He remembered one time when he and Jeffrey went fishing together. His son “seemed captivated by the gutted fish, staring intently at the brightly colored entrails.” Looking back, Lionel couldn’t help but ask, “was that a child’s natural curiosity, or was it a harbinger of the horror that was later to be found in Apartment 213?”<sup>83</sup>

Another animal episode took on haunting meanings for Lionel, an episode that he came to believe should have been the first moment to awaken in him “an uneasiness about what might have been developing” in his son.<sup>84</sup> It took place when Jeffrey was four. Lionel was clearing a collection of animal bones from under the family house, left there by a large rodent or by a skunk. Lionel placed the bones in a bucket and left the bucket on the ground unattended while he spoke to his wife, Joyce. Meanwhile, Jeffrey planted himself beside the bucket and began to play with the bones. “He would pick a few of them up,” Lionel remembered, “then let them fall with a brittle, cracking sound that seemed to fascinate him.” At the time Lionel found it endearing. “Like fiddlesticks,” Jeffrey told his father. But many years later, after Jeffrey was revealed to be a serial murderer, and after learning that his son had spent much of his childhood turning dead and living animals into “fiddlesticks,” Lionel began to remember it differently. “I can no longer view it simply as a childish episode,” he wrote, “but now I have to see it in a different way, in a more sinister and macabre light. It was once nothing more than a sweet memory of my little boy, but now it has a foretaste of his

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<sup>83</sup> Lionel Dahmer, *A Father's Story* (New York: William Morrow, 1994), 54.

<sup>84</sup> *Ibid*, 52.



doom, and comes to me, as it often does, on the thin edge of a chill.”<sup>85</sup>

By thinking about “fiddlesticks,” Lionel Dahmer was trying to make sense of his son’s development using very old tools and assumptions about animal cruelty and human nature—tools and assumptions that had recently been invested with new kinds of authority, articulated in new ways, and used to make sense of seemingly new forms of human violence. These old tools and assumptions, put to use in this new way, held the same promise they once had: that of creating a safer social world.

Creating a safer social world meant identifying and excluding people who threatened to disrupt it with violence. The link between cruelty to animals and interpersonal violence has always defined society in exclusionary ways, which made it a useful tool for thinking about serial killers. It was an act of social exclusion when, in 1888, a humane reformer told the Ladies’ Humane Society of St. Louis: “Think how often you see a horse on the street, driven by something which gloried in the form of a man, but groveled in the lowest brute instinct... Of the two, he who were the human form was the brute.”<sup>86</sup> Cruelty to animals made men and women less than human in nineteenth-century discourses of “inhumane” behavior. In biographical narratives of modern American serial killers—people who had *actually* graduated from animal cruelty to interpersonal violence, as opposed to carriage-driving “brutes” who *might*—cruelty to animals similarly marked them as something less than human.

Thinking about Jeffrey-the-child turning animals into fiddlesticks made Dahmer-the-killer into a knowable social actor—identifiable, stoppable, and excludable. Literary critic David Schmid has written elegantly on the social function of the serial killer graduation narrative, which uses

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<sup>85</sup> Ibid., 53-54. I’d note here that Dahmer did not kill the animals in this episode, although he killed other animals. This story, though, underscores how the authority and widespread knowledge of the animal cruelty link was able to saturate with ominous meanings a remembered moment that involved no actual animal abuse on Dahmer’s part.

<sup>86</sup> Pearson, *The Rights of the Defenseless*, 69.

patterns and predictors such as animal cruelty to set serial killers apart from the rest of us in ways that are observable, quantifiable, and known to law enforcement. “Rather than going back to the killer’s childhood to look for mitigating circumstances,” Schmid wrote, “modern true-crime writers go looking for details in the killer’s childhood that will allow them to claim that the seeds of monstrosity have been lurking, though cunningly disguised, in the killer since childhood.”<sup>87</sup> In terms of the society at large, this narrative “bind[s] these children to their evil fate” and thereby “define[s] the boundaries of community in exclusionary ways.”<sup>88</sup> Animal cruelty becomes a key tool in narrating that social exclusion. Dahmer did not suddenly “erupt,” as Ressler put it, into a murderer. Randall Lockwood was disturbed by otherwise unremarkable footage of Dahmer as a child, but perhaps those disturbances would lessen if he and others knew that when the camera shut off, the smiling boy with the sparklers might have hidden away in his room and boiled a stray cat in acid.

Other narratives of serial murder conform to the patterns described above, utilizing the animal cruelty link to explain evil natures and violent graduation. The link has been especially prominent in true crime writing, a best-selling nonfiction genre. True crime narratives often take the form of biography, meaning that progression is a constitutive part of the genre, providing space for prediction and foreshadowing as murderers progress from infancy to death row or life in prison. Cruelty to animals frequently marks a gateway moment in those narratives of progressive violence. An illustrative example is Joel Norris’s biography of Henry Lee Lucas, a serial killer active from the mid-1970s until his arrest in 1983, who claimed to have murdered over 600 people with his accomplice, Ottis Toole. Norris noted at the end of his story that “Henry Lee Lucas may seem like a bizarre nightmare,” but the book presented him as a person easily comprehended through the lens

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<sup>87</sup> David Schmid, *Natural Born Celebrities: Serial Killers in American Culture* (Chicago: University of Chicago Press, 2005), 205-206.

<sup>88</sup> Ibid, 207, 179.

of his early development.<sup>89</sup>

In *Henry Lee Lucas*, as in other true crime stories, the “graduation hypothesis” was not, for the author, a psychiatric theory or an investigative tool—it was narrative strategy. In the early portions of the book, Norris described Lucas growing up with a sadistic, abusive mother. He described head traumas and repeated violent beatings. He also provided startling details about Henry’s childhood and adolescent cruelty toward animals. Norris even issued something of a meta-commentary on the graduation narrative. “His childhood history reads like a textbook prescription for how to make a serial killer,” Norris wrote. “Lucas, like almost all other serial killers, has evidenced an escalating propensity for violence throughout his life. By this we mean: he has abused animals, killed them, and had sex with their remains; he has been a fire-starter; he was an adolescent rapist, and he progressed to single-event homicide when he killed his mother.”<sup>90</sup> A similar version of this compressed narrative appeared on the book’s dust jacket, which encapsulated Lucas’s life in the following lines:

Forced to endure unspeakable physical and emotional abuse from the time he was four years old, Henry Lee Lucas began to torture small animals for sexual pleasure at the age of ten. At fifteen he raped a young woman in Blacksburg, Virginia and was never caught. At twenty-four, he brutally killed his mother and was sentenced to ten years in a Michigan state prison. She was the first victim of a killing spree that would continue unchecked for nearly thirty years.

Here was the iconic serial killer narrative, both a product of the BSU’s serial killer profile and a popularizer of it, in which cruelty to animals signaled early developmental abnormality and foreshadowed later crimes.

The link has also appeared in fictional accounts of serial killers. That is to say, where writers

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<sup>89</sup> Joel Norris, *Henry Lee Lucas: The Shocking True Story of America’s Most Notorious Serial Killer* (New York: Zebra, 1991), 303. Norris, author of *Serial Killers*, a quasi-academic study discussed above, recast himself as a true crime writer shortly after that book was published in 1988.

<sup>90</sup> Ibid, 285, 301.

had no biographical histories from which to draw material, they invented histories that involved cruelty to animals. Some of the most infamous fictional serial killers tortured animals as children: Dexter Morgan of Jeff Lindsay's *Darkly Dreaming Dexter* (the basis for a popular drama series on Showtime); Freddy Krueger, of the *Nightmare on Elm Street* series; and Michael Myers, of the *Halloween* series.<sup>91</sup> An investigator in Thomas Harris's *Red Dragon* (the first book in the Hannibal Lecter series, of which *The Silence of the Lambs* is the best-known installment) described the iconic Dr. Lecter this way: "He has some of the characteristics of what they call a sociopath. He has no remorse or guilt at all. And he had the first and worst sign—sadism to animals as a child."<sup>92</sup> For creators of fictional serial killers, the animal cruelty link has played an essential role in imaginatively constructing the lives of fictional serial killers, just as it has played an essential role in imaginatively constructing the lives of actual serial killers, from Jeffrey Dahmer to Henry Lee Lucas.

And what of the animals—those early victims in the violent "continuum"? If the link has performed an explanatory, exclusionary function when it comes to serial killers, serial killers have performed an explanatory function for animal advocates seeking to argue that anti-cruelty statutes should be stricter and more strictly enforced. As Philip Jenkins has argued, "a single instance of multiple homicide can be cited in support of divergent rhetorical messages." His case in point was Jeffrey Dahmer, whose murders were, depending on whom you asked, about violence against homosexuals, the poor, people of color, or against the moral fabric of American society. One set of crimes; many different "rhetorical messages."<sup>93</sup> Serial murder, according to Jenkins, "represents an 'ultimate evil,' and any other behavior that can be plausibly linked to it will be regarded as a much

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<sup>91</sup> Jeff Lindsay, *Darkly Dreaming Dexter* (New York: Doubleday, 2004), 39-41; *Freddy's Dead: The Final Nightmare* (1991), directed by Rachel Talalay; *Halloween* (2007), directed by Rob Zombie (the original *Halloween* (1977) didn't include anything about animal cruelty).

<sup>92</sup> Thomas Harris, *Red Dragon* (New York: Putnam, 1981), 62. Robert Ressler counseled Harris while he was researching the novel, and no doubt told him about the homicidal triad.

<sup>93</sup> Jenkins, *Using Murder*, 2-3.

greater menace than might otherwise be the case.”<sup>94</sup> Animal cruelty has been one of those “rhetorical messages.”

Beginning in the early 1990s, animal advocates, to borrow a term from Jenkins, “mapped together” animal cruelty and serial murder for the purposes of highlighting the criminal danger animal cruelty posed to society. Organizations including PETA, the Humane Society, and the ASPCA launched a coordinated national effort to convince state legislatures to pass felony-level animal cruelty statutes. (Most states at the time had only misdemeanor laws on the books.) They argued that the link between animal cruelty and interpersonal violence justified stiffer penalties for offenders. To make their case they borrowed a foundational claim of nineteenth-century animal advocacy and one of the oldest assumptions about human nature in western intellectual history: that a person who is cruel to animals will be cruel to humans. They were walking in the discursive and legal footsteps of animal advocates in nineteenth-century America. Those reformers had used this argument when calling for the very same anti-cruelty statutes that reformers in the 1990s were seeking to augment. Animal advocates in the 1990s invested the argument with new authority, marshalling evidence from the psychiatric and criminological studies performed since the 1960s; deploying the law enforcement expertise of men like Robert Ressler and other agents from the FBI’s Behavioral Science Unit; and relying on public knowledge of widely disseminated narratives of serial murder. In forums from newspapers and advertisements to the floors of state legislatures, advocates argued, to great legislative effect, that criminal law must punish animal cruelty more strictly if the law was to protect American citizens from each other.

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In September 2000 and April 2004, CBS aired two episodes of a topical daytime talk show, *The Montel Williams Show*, about the link between animal cruelty and human violence. It was nearly eight

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<sup>94</sup> Ibid, 7.

hundred years after Thomas Aquinas had argued for kindness to animals as a means of cultivating human virtue. Williams, himself a dedicated animal advocate, had invited other advocates, as well as experts on interpersonal violence to discuss the importance of strict anti-cruelty laws to the safety of humans. “Every day, animals are innocent victims of horrific abuse,” he began the second show:

Not only is the abuse heartbreaking, it’s also a chilling indicator of things to come. Studies show that there is a disturbing link between violence against animals and brutality against humans. Some of the country’s most prolific serial killers made animals their first victims: Jeffrey Dahmer, Ted Bundy, Son of Sam killer David Berkowitz, even teen-age murder Kip Kinkel. As children, they tortured, dismembered, slayed neighborhood pets before turning their vicious behavior against humans. How can you stop violence against animals from escalating to you?<sup>95</sup>

Williams’ logic was more or less the same used by the *New York Times* in its coverage of Jeffrey Dahmer, when it asked: “Today’s victims may be animals. And what of tomorrow’s?”<sup>96</sup> It was more or less the same logic Aquinas, Kant, and Locke used when thinking about human nature. And most important, it was more or less the same logic that reformers such as Henry Bergh and George Angell used to convince legislatures, law enforcement, judges, and prosecutors that anti-cruelty statutes served a vital social function in nineteenth-century America. What was different was the way in which Montel Williams’ logic relied on new authorities and on new forms of knowledge that had developed in the years since 1963, when John Macdonald published “The Threat to Kill”—knowledge and authority rooted in social scientific research; in investigative innovations at the FBI’s Behavioral Science Unit; and in widely disseminated narratives of serial murder. Those phenomena invested a centuries-old message with renewed vigor. “It’s been proven,” Williams told his studio and television audience: “It’s a proven fact that it’s a serious link between animal cruelty and

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<sup>95</sup> *Montel Williams Show*, “Animal Cruelty,” aired April 14, 2004.

<sup>96</sup> “Clues to a Dark Nurturing Ground for One Serial Killer: A Child’s Love of Cruelty May Hint at Future Trouble,” *New York Times*, August 7, 1991.

violence against animals.”<sup>97</sup>

The nineteenth-century version of the link, combined with sentimental discourses of animal suffering, had been a legislative success. By that time animal advocates redeployed it in the 1990s, every state in the United States had enacted anti-cruelty laws that protected animals from malicious abuse (and, at least rhetorically, protected people from malicious individuals). But many of these laws were poorly enforced and rarely led to serious penalties. Beginning in the 1990s, therefore, animal advocacy organizations returned to the issue of anti-cruelty legislation, seeking to raise state anti-cruelty statutes to felony levels. They, like their predecessors, met great success. In 1993, only seven states had felony anti-cruelty statutes on the book. By 2006, animal cruelty was a felony in forty-one states and in the District of Columbia. That was a gain of 500% in the course of thirteen years.<sup>98</sup> Animal advocates were proud of those successes. In a press release in 1997, the Humane Society announced: “Animal protection organizations had their most impressive victories at the state level during 1997. More than 40 state laws were enacted to provide new or stronger protection for animals.”<sup>99</sup> Other years also saw impressive results. They were results rooted in the modern making of an old idea.

Advocates achieved these results, in large measure, by rehabilitating the same argument that led to their successes in the nineteenth century: that animal cruelty made a person more likely to be violent toward humans. Rather than frame the animal cruelty link in the nineteenth-century sentimental language of feelings, hearts, and passions, they framed the link in the language of modern psychiatric research and advanced criminal investigation. As Montel Williams said, “It’s a proven fact.” The project of the link’s deployment was manifold. Animal advocates pressed their

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<sup>97</sup> Ibid.

<sup>98</sup> Sonia S. Waisman, Pamela D. Frasch, and Bruce A. Wagman, *Animal Law: Cases and Materials*. 3<sup>rd</sup> Edition. (Durham, NC: Carolina Academic Press, 2006), 472-474.

<sup>99</sup> “Humane Society Says 1997 was Tough Year for Animals Internationally,” *U.S. Newswire*, December 24, 1997.

case by voicing it repeatedly in local and national media, by lobbying and disseminating information to state legislatures and public officials, and by setting up institutional programs meant to spread awareness of the link between animal cruelty and interpersonal violence. The link between animal cruelty and interpersonal violence—by this point often called simply “the link” and eventually “The Link®”—dominated anti-cruelty discourse at the turn of the twenty-first century from New York to Arkansas to Oregon. In every state, in every region, it was the foundational argument in a call for stiffer anti-cruelty laws.

Campaigns in New York, Georgia, and Washington were representative of how animal advocates married psychological research and serial killer lore to appeal for increased penalties across the United States. In 1997, state legislators in New York pushed for what they called “Buster’s Law,” named after a tabby cat that was lit on fire and burned to death by a Schenectady teenager. (Naming the bill after “Buster” was one way that sentimental ideas about animal suffering figured in a public conversation that mainly focused on human cruelty.) It proposed to make animal cruelty a class E felony punishable by two years in jail and a \$5,000 fine. When it was first proposed in the 1997-1998 legislative session in Albany, the bill’s two sponsors, both conservative Republicans, made the link the centerpiece of their argument. Schenectady Assemblyman Jim Tedisco told reporters, “Animal abuse is definitely a bridge crime. They start out with animals and move on to human beings. If we can catch them younger and get a psychological evaluation, maybe we can straighten them out.” The bill’s co-sponsor, Assemblyman Robert Prentiss, echoed Tedisco’s sentiments: “What happens when animal abusers run out of pets to attack?” Prentiss asked the *Times Union* in Albany. “They turn to humans. These are acts of sick and depraved individuals. So if you catch it when the abusers are young enough, you are helping to protect humans, too.”<sup>100</sup> A citizen writing to the *Post-Standard* expressed her support for Buster’s Bill, and couched the link in the

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<sup>100</sup> “Animal Abuse Bill Gets Another Shot,” *Times Union* (Albany, NY), April 26, 1998.



language of social science and criminal justice: “Studies have demonstrated that animal cruelty is a ‘bridge’ crime, one that leads to serious crimes against humans. The legislation provides for psychological evaluation and counseling, where deemed appropriate, and allows the criminal justice system to track youthful offenders who commit the crime of animal cruelty.” She encouraged readers to write their legislators.<sup>101</sup>

Buster’s Law had widespread support in the Assembly but died in the State Senate that year. Supporters wielded the link to strike back publicly against the legislators responsible for its failure. Tedisco blamed Speaker Sheldon Silver in particular. People for Animal Rights (based in Syracuse) all but accused Silver of siding with criminals. “An FBI study indicates that serial killers of humans usually began their bloody careers by torturing and killing animals. What to do?” the organization asked, in an article titled, “Silver Prevented Bill on Cruelty from Passing”: “One of the solutions may be to pass legislation that would make it a felony to commit especially horrific acts of cruelty to animals. The idea would be to encourage the justice system, perpetrators and society at large to take these acts more seriously and to intervene earlier with counseling, fines, and jail, before the violence escalates.”<sup>102</sup>

The next year, Buster’s Law passed both the Assembly and the Senate, and the campaign continued in order to ensure that Governor George Pataki signed it into law. State Senator Roy Goodman, a Republican representing Manhattan, told the *New York Daily News* that FBI studies had found links between animal cruelty and serial murder. “Let unpunished, [animal cruelty] can lead to escalating cruelty to humans,” he told the *Daily News* in June of 1999. “We need to give law enforcement the tools to deal with the disturbed individuals who abuse animals before they commit

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<sup>101</sup> “Bill Would Increase Penalty to a Felony Animal Abuse,” *Post-Standard* (Syracuse, NY), March 6, 1998.

<sup>102</sup> “Silver Prevented Bill on Cruelty from Passing,” *Post-Standard* (Syracuse, NY), July 13, 1998.

more serious crimes.”<sup>103</sup> One month later, Governor Pataki signed the bill into law. Buster’s Law made New York the 23<sup>rd</sup> state to raise animal cruelty to a felony offense. Upon signing the bill, Pataki released a statement. It revealed in remarkable fashion how a single idea with old roots in western thought and animal advocacy had worked its way through modern social science, popular culture, and animal advocacy straight to the mouth of New York’s chief executive: “Abusing defenseless animals is a gateway crime that can lead to violence against human beings. It’s disturbing behavior that must be taken very seriously, and that is what Buster’s Law will allow us to do.”<sup>104</sup>

In Georgia, despite differences in regional culture, demographics, and politics, the story was nearly identical that same year, as legislators, the media, and animal advocates found common ideological ground in the link, making a push for felony legislation that was less about animals welfare than about being tough on crime. Public interest in the proposed legislation gathered steam in August, after several boys were charged in juvenile court for torturing and killing a cat named Dunkin. Protesters gathered outside the courthouse. One of them held a sign that read, “Jeffrey Dahmer, Ted Bundy, David Berkowitz—most serial killers have a history of animal killing.” Covering the story, the *Atlanta Journal and Constitution* interviewed State Representative Scott Dix, who was then drafting the new anti-cruelty bill. “This is not an animal rights bill,” he told the paper. “This is an anti-violence and anti-crime type legislation. This bill has a lot to do with intervention.”<sup>105</sup> For Dix, animals and their welfare mattered little in a bill that would be the state’s main source of legal protection for those animals. It was a crime bill. It was about identifying, predicting, and excluding from society those people who would do harm to other people.

The link allowed supporters of the bill in Georgia to combat a key argument made by the

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<sup>103</sup> “Pols OK Penalty for Pet Killers,” *New York Daily News*, June 15, 1999.

<sup>104</sup> “Pataki Signs Animal Cruelty Bill,” *Associated Press*, June 29, 1999.

<sup>105</sup> “Cats’ Deaths Stir Calls for New Laws; Some Cruelty Would Get Felony Charges,” *Atlanta Journal and Constitution*, August 24, 1999.

bill's opponents: that it was "anti-human." They warned that the bill would prevent someone from shooting a dog that was attacking them, and that a similar law in New Hampshire had convicted a man of animal cruelty for killing a rat in his yard. Rumors also circulated that the bill took steps toward banning the consumption of meat. State Senator Robert Brown, the bill's sponsor, told the *Atlanta Journal and Constitution* that the bill's opponents were perpetrating rumors of a "national conspiracy" to place the interests of animals above those of humans. Terry Sprinkle, of Mableton, Georgia wrote a letter to the *Atlanta Journal and Constitution* to respond to those rumors: "Given the facts from recent interviews with some of our high school murderers that whoever would torture or kill an animal also might think little of killing a fellow human being, raising the crime of animal cruelty to felony status seems not only justifiable but also long overdue."<sup>106</sup>

While some opponents in Georgia were concerned about a "national conspiracy," there was indeed a national campaign underway. And the pattern was the same across the country as lawmakers, animal rights advocates, and the public deployed the link *ad nauseam* while lobbying for felony-level anti-cruelty statutes. The pattern was the same in Washington, which I'll offer as a final example to show how the link functioned similarly in the Northeast, the South, and the West. There, a felony-level bill passed the house legislature in February 1994 by a vote of 95-2. "We need to come out of the dark ages and recognize the seriousness of deliberate cruelty to animals," said Bob Walter, education director for the Humane Society of Tacoma and Pierce County, "because as we're finding from research... most of our heinous criminals have tortured animals when they were younger." One of the legislators who voted for the bill, Representative Steve Van Luven, a Republican from Bellevue, insisted that the bill he was voting for was not an animal rights bill, but a crime bill. "I'm not for animal rights," he said, echoing the sentiments expressed by Rep. Dix in Georgia, "but I am

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<sup>106</sup> "Cruelty Bill Faces Rural Hurdles," *Atlanta Journal and Constitution*, December 1, 1999; "Opposition to Stronger Animal Cruelty Laws Varies," *Atlanta Journal and Constitution*, December 1, 1999; "Letters, Faxes, and E-mail: Expose Facts about Cruelty to Animals," *Atlanta Journal and Constitution*, December 5, 1999.

against animal cruelty.”<sup>107</sup> Even after the bill passed, the link remained prominent in public discourse, with some deploying it to encourage prosecutors to seek felony convictions. Douglass Allmon wrote an angry letter to the *Seattle Times* after reading about a sixteen-year-old who had received a ten-day sentence in juvenile detention for torturing three cats and killing one. The prosecutor chose to charge the teenage with a misdemeanor rather than a felony. “One of the earliest markers of sociopathic behavior is harm of animals by children and adolescents,” Allmon wrote. He called the sentence a “mockery of our laws against animal cruelty” and warned of the young offender that “we are likely to hear more about him as he grows older, thanks to the judge’s leniency.”<sup>108</sup>

The animal cruelty link was deployed in every state that considered or enacted felony-level animal cruelty legislation during the 1990s and early 2000s.<sup>109</sup> In each case, it helped foster an

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<sup>107</sup> “House Passes Bill to Toughen State’s Animal Cruelty Laws,” *Seattle Post-Intelligencer*, February 16, 1994.

<sup>108</sup> “Cruelty to Animals—Sentence Not Serious Enough for Crime of Animal Torture,” *Seattle Times*, June 10, 1997.

<sup>109</sup> A few more examples: Oregon passed a felony animal cruelty bill in 1995. According to Sharon Harmon, executive director of the Oregon Humane Society, one of the most instrumental figures in getting the bill passed was a man name Charles Turner, a retired U.S. Attorney and a judge in Oregon. Turner made calls to representatives who were uncertain about the bill. “It’s not automatic that every animal abuser becomes a killer,” Turner told the *Oregonian* at the Animal Cruelty and Human Violence Conference. “But this is not to say these are not dangerous people... Animal abuse is an excellent predictor for future criminal behavior.” In his presentation, as he likely did in his lobbying calls, Turner listed the serial killers and school shooters who had histories of animal abuse. (“People Cruel to Animals Can Strike at Humans,” *The Oregonian*, October 15, 1998.) The story was the same in New Mexico, where a felony-level bill passed both the House and Senate and was signed into law in March, 1999. The bill’s sponsor, Representative David Pederson, told the press, “There is a definite link between people who exhibit cruel and dangerous behavior to animals who later end up exhibiting cruel and dangerous behavior to human beings.” (“Animal Cruelty Bill Receives AG’s Support, Gov’s Opposition,” *Albuquerque Journal*, February 3, 1999.) In Virginia, the General Assembly passed a bill that made animal cruelty a Class 6 felony. Delegate David Albo, a Republican from the 42<sup>nd</sup> District of Springfield and a support of the bill told reporters, “Many studies have shown that cruelty to human beings often starts with cruelty to animals.”<sup>109</sup> Arkansas, which has had trouble getting their animal cruelty bills passed, has been suffused with the Link since a felony-level bill was first considered in 1999. While the state legislature was considering the legislation, before it was shelved by the House Judiciary Committee, citing fears that the statute would be used against hunters or people in the agricultural industry, the *Arkansas Democrat-Gazette* published a 1,690 word article about the link between animal cruelty and interpersonal violence. It urged all states, including Arkansas to enact and enforce felony-level legislation. “Childs play?” the article began. “When three teenage boys in Iowa bludgeoned 16 cats to death with baseball bats, some townspeople shrugged it off, saying, Boys will be boys.” A jury found the boys guilty of misdemeanor cruelty and trespassing. “Such an attitude can get people killed,” the paper warned. Didi Salling, executive director of the Arkansas Public Defender Commission, spoke to the paper at length about the Link. “I know every inmate on Death row in Arkansas,” she said, “and everyone started out abusing animals.”<sup>109</sup> The bill failed but was reintroduced in following years. The 2000 bill received backing from the Barling, Arkansas Police Department. Officer Victoria Harris explained that the Link was the

unlikely collaboration among conservative and liberal legislators, animal advocates, law enforcement, and social service professionals. It succeeded so well, in part, because it eliminated animal rights discourse from bills seeking to protect animals. Indeed, as I've shown, many of the legislators that supported the bills announced that they were opponents of animal rights, that the bills had nothing to do with animal rights, and that the bills had everything to do with preventing crime against humans.

Along with their legislative efforts, animal advocates invested a great deal of institutional energy in the link, making it a cornerstone of organizational outreach. International organizations like PETA and the Humane Society made the link a primary tool of advocacy. In 1997, the Doris Day Animal League (which merged with the Humane Society in 2006) began publishing a book entitled, *The Violence Connection: An Examination of the Link Between Animal Abuse and other Violent Crimes*. The organization distributed that book to judges, prosecutors, and legislators. They also developed an accompanying program called *The Vicious Circle*, which focused on spreading information about the link.<sup>110</sup> Similar programs developed on a larger scale through PETA and the Humane Society. At the Humane Society, the program was called *First Strike*. Created in 1997, it remains a centerpiece of their mission today. *First Strike* has focused on disseminating literature to law enforcement, legislators, social workers, educators, medical professionals, and what they call “concerned citizens.” Many of their materials are now available at their website. Each kit has a slightly different emphasis, meant to target a specific audience, but they all include some version of

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reason her department chose to support the bill. “We view animal cruelty as an indicator of more serious and violent crimes,” she said. “It’s usually a stepping stone to more serious and violent acts.” (“Taking on Animal Cruelty—Again: Proposal Seeks to Stiffen Penalties for Abuse,” *Arkansas Times*, December 29, 2000.)

<sup>110</sup> “Eternal Sunshine,” *New York Times*, June 3, 2007. In 1999, when Congress banned “crush films” (pornographic films that involve actors stepping on and killing small animals, generally mice; see my chapter 4), Doris Day issued the following statement, “The connection between people who harm animals and those who maim or kill other humans is increasingly strong. I am very grateful to Congressman Elton Gallegly and the law enforcement officials in his district for their leadership in introducing H.R. 1887.” (“Doris Day Animal League Joins Forces with Congressman Elton Gallegly to Crush Animal Cruelty,” *Business Wire*, September 30, 1999.)

the following paragraph, from the Law Enforcement Fact-Sheet:

Many studies in psychology, sociology, and criminology during the last 25 years have demonstrated that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty. The FBI has recognized the connection since the 1970s, when bureau analysis of the life histories of imprisoned serial killers suggested that most, as children, had killed or tortured animals. Other research has shown consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child abuse, spouse abuse, and elder abuse.<sup>111</sup>

Nineteenth-century advocates used a variety of literary texts to encourage kindness in children, from child-reading guides for parents, to children's stories, to novels such as *Black Beauty*, to pamphlets of speeches by reform leaders. Advocates in the 1990s used the modern link to similar ends: to educate young people and the men and women charged with caring for them—parents, educators, social workers, health professionals, police officers—about the importance of being kind to animals and about the dangers of being cruel. Commenting on *First Strike* for “Children’s Express,” a special section in the *New Amsterdam News*, Kim Roberts, a Humane Society worker and former social worker, noted that people who abused animals “were never taught kindness or empathy.” According to her, those people “are more likely to be cruel to humans in other ways... By taking animal cruelty seriously, we can protect animals, but we can also protect other people.”<sup>112</sup> Soon thereafter, PETA launched *Be Kind*. Their strategy was similar to that of *First Strike*. They sent teaching kits and videos to 100,000 educators and 15,000 pediatricians.

Informational kits mails to judges, legislators, police officers, doctors, and educators were just one part of the outreach. These organizations also disseminated the link in popular media. In September 1999, for example, PETA began running a public service announcement about the link. The ad, which ran nationally, showed children playing gently with animals. Actor Mike Farrell, an

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<sup>111</sup> Law Enforcement Factsheet, *First Strike*, Humane Society of the United States: [http://files.hsus.org/web-files/First\\_Strike/Veternary\\_Factsheet\\_2004.pdf](http://files.hsus.org/web-files/First_Strike/Veternary_Factsheet_2004.pdf)

<sup>112</sup> “Children’s Expres: Don’t be Cruel—to Animals or People,” *New Amsterdam News*, January 7, 1999.

animal rights advocate who played a veterinarian on the NBC show *Providence* told the audience, “People who do violence to others often begin by abusing animals.” PETA’s director of public affairs, Lisa Lange described the campaign as being primarily about violence: “After Columbine, we said, ‘What can we do that’s proactive?’”<sup>113</sup> In 2005, the organization placed an ad in *Good Housekeeping* that read:

Boys will be boys. Pulling pigtaails and shooting spitballs may be harmless pranks, but when kids hurt animals, they often grow up to be violent criminals. FBI experts know that serial killers and rapists often have a history of animal abuse. Teach your children that it’s wrong to hurt animals. If you know a child who has abused animals, tell the parents or police before the child’s violence escalates.<sup>114</sup>

Animal advocates disseminated knowledge of the link wherever they could.

Widespread dissemination of the link had the effect of reshaping the way that newspapers cover crimes against animals. In 1962, a year before Macdonald published “The Threat to Kill,” the *Washington Post* reported on a “prankster who scalded a 7-year-old dog to death.” An assistant U.S. attorney decided not to prosecute the “prankster” in exchange for four days of volunteer work at a local animal advocacy group.<sup>115</sup> Other stories about child and adolescent animal abuse adopted a similar tone before knowledge of the link became more widespread: more “boys will be boys” than “these boys will become killers.”<sup>116</sup> A very different pattern of reportage emerged in the 1990s. In 1990, the *Washington Post* published a story about dogs found burnt to death and tortured in Northeast Washington D.C. The paper asked Randall Lockwood for comment. He told the *Post*,

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<sup>113</sup> “Not Just Child’s Play,” *Adweek*, September 6, 1999.

<sup>114</sup> Quoted in Goodney Lea, *Delinquency and Animal Cruelty*, 6.

<sup>115</sup> “Scalder of Dog May Yet Atone,” *Washington Post*, June 27, 1962.

<sup>116</sup> For example: “The People Speak: Cruelty to Animals,” *Chicago Daily Defender*, August 28, 1962; “Youth, 16, Surprised in Basement Lab Dissecting Dog; Charged with Cruelty,” *Washington Post*, September 3, 1965; “Boy Charged in Wounding of Prize Dog,” *Washington Post*, November 17, 1966; “Wounded by Arrow, Dog is Put to Death,” *Washington Post*, July 1, 1967. All these stories treat animal cruelty as unserious adolescent behavior. A letter writer to the *Defender* was concerned about “acts of cruelty to helpless animals,” but showed now awareness of the Link. His concern for the children was that “if this animal had become violent like so many when they are hurt, some child may have been severely bitten.”

“studies have consistently shown that men who murder and rape usually committed acts of violence against animals when they were young.”<sup>117</sup> Since the 1990s, news stories about cruelty to animals have been stories about the link, with most following a similar pattern. They begin with a local case of abuse and then explain the link between animal cruelty and interpersonal violence, often providing a quote from an animal advocate, from a former FBI agent, or from another expert. The stories then tend to focus on law enforcement, pending felony-level anti-cruelty statutes, ongoing studies by social scientists, or animal advocacy campaigns like *First Strike*.<sup>118</sup>

Animal advocates have not relied exclusively on experts to spread the link in popular media. Members and concerned citizens, encouraged by organizational outreach, have also played an important role. Arnold Arluke, a sociologist who has studied human-animal relationships, described one organization’s mass-mailing that read: “We now have scientific proof...that people who abuse animals are far more likely to commit acts of violence toward people... 70% of animal abusers also had criminal records for serious crimes. This is alarming!” Arluke was surprised to find that the letter cited one of his own studies—a 1999 study in which he found that animal abuse *did not* directly correlate to violence against humans.<sup>119</sup> Mass mailings and other forms of direct outreach encouraged members and other concerned citizens to write letters to newspapers and legislators with words of support for strongly written and strictly enforced anti-cruelty laws. In 1994, when two boys killed a swan in Manlius, New York, a man named Murray Cohen wrote to the *New York Times*

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<sup>117</sup> “Young Killers Sought in NE Animal Attack,” *Washington Post*, February 24, 1990.

<sup>118</sup> Examples from 1997 and 1998: “Animal Abusers Found Prone to Hurt Humans,” *Telegram and Gazette*, August 29, 1997; “Hurting Animals is an Important Clue,” *Boston Herald*, September 1, 1997; “Cruelty to Animals Can Be a Sign of Cruelty to Humans, Study Says,” *Houston Chronicle*, September 10, 1997; “Animal, Human Cruelty Linked,” *Denver Post*, September 10, 1997; “Cruelty to Pets—and People—as One Battle,” *Christian Science Monitor*, September 10, 1997; “Study: People Cruel to Animals More Likely Dangerous to Humans,” *Times-Picayune*, September 14, 1997; “Animal Abusers Often Move on To Larger Prey,” *Cleveland Plain Dealer*, September 29, 1997; “Abusive Behavior May be Linked to Violent Past; Many Perpetrators have a History of Animal Cruelty,” *Houston Chronicle*, October 19, 1997; “Animal Cruelty: A Sign of Other Abuse,” *Columbus Dispatch*, November 17, 1997; “The Pet Killers: Today’s Animal Abusers Might be Tomorrow’s Murderer,” *Tulsa World*, February 22, 1998.

<sup>119</sup> Arnold Arluke, *Just a Dog: Understanding Animal Cruelty and Ourselves* (Philadelphia: Temple University Press, 2006), 167.



warning of “their potential for other violent behavior.” A doctor himself, Cohen noted, “studies clearly document the link between child and animal abuse and show that unchecked violence toward animals can lead to violence against people. A significant percentage of violent criminals abused animals when they were young.”<sup>120</sup> (Perhaps Cohen, as a physician, had received one of the *First Strike* kits.) In 1995, after NYPD officers were accused of beating a dog, a woman named Elizabeth Forel praised the Commissioner for firing them: “studies show that wife abusers, serial killers, and other misfits often have a history of animal abuse in their background. Violence begets violence.”<sup>121</sup>

The link was effective and persuasive. In its modern iteration, it accomplished for animal advocates what the nineteenth-century interaction had accomplished in the past: it created legal protections for animals. By harnessing the authority of social scientific studies; the expertise of specialized law enforcement; and popular narratives of serial murder, animal advocates adapted an ancient, moral argument about cruelty to animals and human nature into a modern argument rooted in new forms of knowledge, authority, and expertise. Animal advocates revived an argument as old as the animal advocacy movement itself, but framed it in new ways, deployed it in a new world, and secured new laws to protect animals from abuse.

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This history of a foundational idea—that harming animals makes a person more likely do harm to humans—reveals how ideas about animals and our treatment of them can come to animate public discourse, history, and policy in time and through time. Cruelty to animals has been, for over two centuries, the main conceptual apparatus with which humans have thought about their uses and misuses of animals. It has not been a static apparatus, even if the link has very long roots in history. Animal cruelty has been an apparatus constantly morphing within its contexts: legal, social, cultural,

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<sup>120</sup> “Violence to Animals Signals Severe Disorder,” *New York Times*, May 26, 1994.

<sup>121</sup> “Here’s to Commissioner in Case of Abused Dog,” *New York Times*, November 14, 1995; responding to “Officers Ousted After Charges of Beating Dog,” *New York Times*, November 8, 1995.

and scientific. For centuries, people have argued that cruelty to animals either revealed human cruelty or hardened the human heart. The result was inevitably social ill, violence, murder. The articulation and evidencing of that belief, though, has varied in time, and in the case of the above history, transformed markedly in the United States in the late twentieth century, when social scientists were studying the roots of human violence; when law enforcement was developing new investigative tools to combat forms of human violence that seemed new in kind and in scale; and when serial killers came to represent in the popular imagination the fullest expression of violence and social breakdown. The link between cruelty to animals and interpersonal violence promised to make human violence sensible. It rehabilitated the social reassurances of sentimentalism, which posited that external behaviors gave expression to inner virtue or cruelty. It promised to make a young boy named Jeffrey visible to parents, educators, and neighbors before he became the serial killer Jeffrey Dahmer. Animal advocates in the late twentieth century realized the power of the link in these contexts, just as their predecessors in the nineteenth century had, and they used its undeniable persuasiveness—while perhaps overstating scientific consensus—to achieve legislative successes for animals.

The history of this idea as it has moved through time reveals, in the last, just how deeply connected are ideas about animals and ideas about humans—how inextricable is thinking about animals from thinking about ourselves. Thinking about cruelty to animals has meant thinking about human nature, behavior, and social belonging: about who is good and who is evil, about who can be a part of society and who can't, and about who is human and who is “inhumane.” And somewhere in there, we think about the animals and about what sorts of treatment we owe the

## CHAPTER TWO

### COCKFIGHTER NATION:

#### CRUELTY, CULTURE, AND THE MAKING OF MODERN AMERICA

*“The culture of a people is an ensemble of texts, themselves ensembles, which the anthropologist strains to read over the shoulders of those to whom they properly belong.*

*... Clifford Geertz, 1972<sup>1</sup>*

To begin, two stories about cockfighting and culture in 2007.

In 2007, the Louisiana legislature voted to make cockfighting illegal. It was the last state in the United States to do so, and it had been facing increasing pressure to outlaw a practice that one Louisiana State Senator called a “barbaric embarrassment to Louisiana.” That same politician urged that Louisiana “close this chapter of our history and move on to better things.”<sup>2</sup> Advocates for the ban routinely used this language and this logic. Cockfighting was barbaric, cruel, uncivilized. It was a practice that ought to be confined to history, to a less civilized past where less evolved people saw fun, and not cruelty, in pitting two roosters in a fight to the death. Cockfighters and those sympathetic to their cause, however, defended the practice in exactly those terms: cockfighting *was* history. It was a cultural tradition that came with the founding of the country; that was embraced by American founders and heroes from George Washington to Abraham Lincoln; and that exemplified the very values on which the country was built. Cockfighting was local culture—Cajun culture—but it was also a national culture that had been stamped out by moral reformers, liberals, and the federal government. And Louisiana was making the last stand to defend American heritage.

As Clarence “Woolly” Bunch, the owner of the Little Revel Game Club in Baton Rouge, said to the *Washington Post*, “It’s my heritage. They got us down like we outlaws, and, well, if we are, Washington, Jefferson, Jackson, all out presidents—they had them... Changing your heritage, well, I

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<sup>1</sup> Clifford Geertz, “Deep Play: Notes on a Balinese Cockfight,” *Daedalus*, vol. 101, no. 1 (Winter 1972): 1-37; reprinted in Clifford Geertz, *The Interpretation of Culture* (New York: Basic Books, 1973), 452.

<sup>2</sup> “Proposed Cockfighting Ban Fails in La. House Committee,” *Associated Press*, June 1, 2006.

don't see where they should think about nothing like that." Woolly's friend Chris Stewart, another Louisiana cockfighter, echoed the point: "He feels outsiders don't understand a culture that is centuries old and has been a hobby of presidents. The story is retold countless times about how Honest Abe got his name as a cockfight referee." Another cocker, Carter Kinchen of Tickfaw, LA, made a similar argument this way: "Religion and cockfighting built this country."<sup>3</sup>

At the same time, Puerto Rican legislators, cockfighters, and allies were also defending *la pelea de gallos*. Two thousand and seven was a bad year for cockfighting. Cockfighting would become illegal in all fifty United States. President George W. Bush would sign into law the Animal Fighting Prohibition Enforcement Act, which would make it a federal crime to transport gamecocks across state or national borders. And animal advocacy groups would announce a new campaign against cockfighting in U.S. territories. Like cockfighters in Louisiana, the cockfighters of Puerto Rico argued that these developments amounted to a total assault on their culture. In 2007, therefore, the legislature passed the Puerto Rico Gamecocks of the New Millenium Act, which declared cockfighting the "cultural right" of Puerto Rico, protected by international law.<sup>4</sup> "As are the flag and the *coqui* frog," the Act read, "the gamecock is a symbol of our culture."

Unlike stateside cockfighters, however, Puerto Ricans were defending a cultural practice that persisted despite more than a century of American occupation and cultural influence. The flag they spoke of was the Puerto Rican flag; the *coqui* frog, an unofficial symbol of the island. For Puerto Rican cockfighters, the sport was a piece of tradition and heritage: a cultural practice rooted in centuries of Puerto Rican history that predated the arrival of American troops and bureaucrats. For many cockfighters in the United States, cockfighting was also a piece of tradition and heritage: a

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<sup>3</sup> "Dawn in Louisiana; With Cockfighting Outlawed, a Dying Breed Mourn Their 'Heritage,'" *Washington Post*, August 15, 2008.

<sup>4</sup> *Puerto Rico Gamecocks of the New Millennium Act*. H.B. 1369, Act No. 98 of 15<sup>th</sup> Puerto Rican Legislature, 5<sup>th</sup> session (official translation available at from <http://www.oslpr.org/download/en/2007/A-0098-2007.pdf>)

cultural practice rooted in traditional histories of America's founding and of its early political heroes.

These histories of cockfighting in Louisiana and Puerto Rico were part of a single American history in which cockfighting became cruel and it became culture. This history is also one of transformations in the nation's physical, human, and ethical geographies. This chapter spans the end of the nineteenth century to the present, and as the chapter begins, we find the United States taking new form. The U.S. had reached the Pacific by the middle of the nineteenth century, conquering and incorporating Mexican lands and peoples.<sup>5</sup> With the continental frontier closing and new global markets opening, the U.S. looked overseas to occupy territories in the Caribbean, Pacific, and Southeast Asia, encountering and ruling over new people and new cultures. Meanwhile, the domestic population changed, too. European immigration helped turn the U.S. from a country of 23 million people in 1850 to a country of 92 million in 1910. Urban areas bore the brunt of this population growth, accommodating waves of immigrants and also young men and women from the American countryside.<sup>6</sup> A decade into the twentieth century, and Jefferson's agrarian America had become a country in which nearly half the population lived in cities. A little over a decade into the twenty-first century, and eighty percent of America's 314 million people now live in metropolitan areas.<sup>7</sup>

These large-scale transformations produced the cultural and social formations that shaped the history of cockfighting in America. National expansion, imperialism, and immigration gradually created an America composed of many Americas, with many races, ethnicities, faiths, cultures, and perspectives on human-animal relations. That process of multicultural transformation would (and

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<sup>5</sup> Thomas R. Hietala, *Manifest Design: American Exceptionalism and Empire*, Revised Edition (1985; Ithaca: Cornell University Press, 2003).

<sup>6</sup> On immigration and empire, see Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1999) and *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917* (New York: Hill & Wang, 2000); On growth of cities, see Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States* (New York: Oxford University Press, 1985), 68-72.

<sup>7</sup> Jackson, *Crabgrass Frontier*, 87; United States Census Bureau, "Growth in Urban Population Outpaces Rest of Nation, Census Bureau Reports," March 26, 2012; [http://www.census.gov/newsroom/releases/archives/2010\\_census/cb12-50.html](http://www.census.gov/newsroom/releases/archives/2010_census/cb12-50.html) (accessed March 14, 2013).

continues) to be a difficult one, characterized by racial oppression and ideologies of white victimization; immigration policies shaped by racial ideologies and by the contingencies of American military and economic imperatives; and by diverse cultural exchanges, erasures, transformations, and preservations. Animal advocacy, broadly, and cockfighting, in particular, would figure in this process.

Meanwhile, industrial urban America created spaces of both wealth and poverty, facilitating the development of an urban middle-class that built new institutions of moral reform to fix the social ills they saw in their cities. Some reformers worked to change material conditions of child labor, public health, poor housing, and the treatment of women, while reshaping the ethics of human relations. Others worked to improve the material conditions of animals while reshaping the ethics of human-animal relations. Henry Bergh founded the American Society for the Prevention of Cruelty to Animals in New York City in 1866, and cockfighting was among their first targets. In the decades that followed, he and his allies sought nothing less than a national cultural transformation with respect to animals. That this cultural transformation emerged in cities and was spearheaded by middle-class social reformers would sit uneasily with many of the people—urban immigrants and rural Americans, for example—who were asked to join them in that cultural transformation.<sup>8</sup>

It was in the context of these changing human, physical, and ethical geographies that cockfighting became cruel and became culture in modern America. Cockfighting became cruel because animal advocates from 1866 to 2007 convinced growing numbers of social reformers, legislators, government officials, educators, judges, lawyers, prosecutors, and members of the American public that cockfighting was barbaric, uncivilized, and socially dangerous. Cockfighting became culture as it became cruel. The language of barbarism, civilization, modernity, and progress that framed the social meanings of cruelty to animals also figured more generally in the cultural

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<sup>8</sup> On the rise of animal advocacy in nineteenth-century America generally, see Carson, *Men, Beasts, and Gods* (1972); Beers, *For the Prevention of Cruelty* (2006); and Pearson, *The Rights of the Defenseless* (2011).

construction of social hierarchies based on race, class, ethnicity, and religion. The effect was that discourses of animal protection sometimes became discourses of social hierarchies. To many middle-class reformers, it was the poor, and especially, the immigrant poor who engaged in animal cruelty. Respectable men and women of urban America did not beat and overburden carriage horses; they did not slaughter cows, pigs, and chickens; and they did not fight cocks. The difference seemed to be one of social progress, the development of appropriate moral sensibilities, and the collective embrace of modern civilization.

As I showed in my previous chapter, ideas about cruelty to animals had long helped create personal meanings about human nature—about individuals, about their capacities for cruelty or kindness, and about their place in society—but they could also create cultural meanings about whole communities and groups. This was not a problem of Tom Nero torturing animals and murdering people; it was a problem of uncivilized peoples, who, much like the children who were so often the focus of humane education, needed to learn the ethic of kindness. And just like ideas about individual cruelty embedded in the tale of Tom Nero, these ideas about cultural cruelty would have lasting resonance beyond the nineteenth century, shaping and shaped by the evolution of the United States in the twentieth century.

The Oxford English Dictionary defines “culture” as “the distinctive ideas, customs, social behaviour, products, or way of life of a particular society, people, or period.” To take a popular social practice like cockfighting and treat it as a “distinctive” custom or behavior was to assign it real meaning in the society of people who engaged in it. And to label that distinctive custom or behavior as cruel, uncivilized, barbaric, or pre-modern was to make a profoundly stigmatizing claim about those people, whether they were the immigrant poor of New York City at the turn of the twentieth century, or the inhabitants of Puerto Rico and the Philippines under U.S. occupation, or the rural whites of Depression-era America. It was a statement of cultural difference. But notions of cultural

difference also gave cockfighters and their communities an opportunity to make claims on behalf of themselves. They could flip the script and claim a past worth preserving, a heritage and tradition with deeply rooted social value. It was this claim that cockfighters in Louisiana made when cockfighting faced criminalization in 2007. It was this claim that the Puerto Rican legislature made when they declared cockfighting the “cultural right” of the Puerto Rico that same year.

This chapter offers a cultural history of cockfighting in a modernizing United States. It has two narrative threads. One thread focuses on U.S. imperialism in Cuba, the Philippines, and Puerto Rico and on the multicultural reverberations of those occupations. In the years after the Spanish-American War in 1898, American journalists, missionaries, soldiers, government officials, and educators found cultural significance in Cuban, Puerto Rican, and Philippine cockfighting—a cruel practice that characterized their populations as uncivilized, degraded, immoral, and incapable of self-government. As such, cockfighting became a central, and historically overlooked, tool in the imperial racial formation and governance of Cubans, Puerto Ricans, and Filipinos. But it also became a site of contests over cultural and political sovereignty for Cubans seeking independence in the early twentieth century, for Puerto Ricans creating a cultural identity under persistent occupation, and for Latino immigrants to the United States looking to preserve a part of their culture in an adopted country.

The second thread focuses on cockfighting in the mainland United States. As late as the 1880s, cockfighting was widespread in the U.S., popular in city and country alike. Gradually, state-by-state prohibition pushed cockfighting to the margins of social life and to the outskirts of population centers. Over time, to the increasingly rural and white communities where cockfighting remained popular, animal advocacy became associated with an urban, modernizing America that was pushing them to the margins, too. In response, American cockfighters framed their sport as a piece of American cultural heritage wrongly targeted by parties engaged in what became known in the late



twentieth century as the “culture wars.” These parties included animal advocates, liberals, urbanites, secular progressives, and the state. Against these forces, cockfighting was a cultural practice that expressed both local tradition and national American values, ones that seemed to be disappearing.

In both threads, cockfighting was an imaginative site of cultural meanings rooted in ideas about civilization, progress, and modernity. This history of cockfighting is not one of easy contours and obvious causality. Cockfighting is a practice that has been maintained in the shadows, and it is only by identifying the moments at which it emerges from those shadows and into a more public visibility that its history can be reconstructed, albeit incompletely, before it slips back into those shadows, taking with it the thread of its unfolding story—a story that has seen cockfighting play a formative role in constructing social and cultural boundaries between the civilized and the uncivilized, the rural and the urban, the traditional and the progressive, the cruel and the humane.

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Cockfighters are certainly right about the long tradition of cockfighting, which some sport historians consider the oldest sport in the world, popular among ancient Syrians, Greeks, and Romans.<sup>9</sup> The sport also has a deep history in China, India, and Southeast Asia, which accounts for its long tradition in the Philippines and surrounding islands. (Magellan discovered that gamecocks were considered sacred in Borneo, and were never eaten.)<sup>10</sup> As a British tradition, cockfighting became popular in the twelfth century, when British grammar schools began incorporate it into celebrations of Shrove Tuesday, the last day before Lent. Educators believed that fighting cocks modeled the kind of courage that boys would be expected to develop, and thus, every year for centuries,

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<sup>9</sup> Lawrence Fitz-Barnard, *Fighting Sports* (London: Odhams Press Limited, 1921), 3.

<sup>10</sup> Page Smith and Charles Daniel, *The Chicken Book* (1975; Athens: University of Georgia Press, 2000), 75-76.

schoolboys in the UK brought gamecocks to school and fought them on Shrove Tuesday.<sup>11</sup> It became a favorite sport of kings and aristocrats, its devotees including Henry VIII (who built a famous royal cockpit at Whitehall), James I, Charles II, William III, and George IV. Its popularity gave the English language “cocky,” “cocksure,” “cock of the walk,” “battle royal,” “well-heeled,” “pitted against” and many other English words and idioms.<sup>12</sup> In London, many places owed their names to the cockpit. In 1761, there was Cockpit Alley, Cockspur Street, Cock Hill, and Cockpit Street, as well as ten Cock Alleys, nine Cock Courts, eight Cock Yards, and four Cock Lanes.<sup>13</sup>

British emigrants to the American colonies brought gamecocks with them, pitting them wherever they settled. Cockfighting took its firmest and most lasting hold in the rural South, but the sport thrived everywhere from Massachusetts to South Carolina.<sup>14</sup> Records from the colonial period include advertisements for cocking mains (organized events that featured multiple fights between birds from two different towns, cities, or states), and many travel accounts described colonists’ proclivities for the sport. Hugh Jones, for example, wrote in his *Present State of Virginia* (1724) that the “the common planters leading easy lives don’t much admire labor, or any manly exercise, except horse-racing, nor diversion, except cock-fighting, in which some greatly delight.”<sup>15</sup> Ebenezer Hazard, Surveyor General of the Post Office, also noticed cockfighting while traveling in Virginia. “Horse-racing and cockfighting seem to be the principal Objects of Attention,” he recorded in 1777.<sup>16</sup>

The sport thrived in America through the nineteenth century despite the contemporary

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<sup>11</sup> Sir Walter Gibley, Bart, *Sport in Olden Times: Cockfighting* (1912; West Sussex: Beech Publishing, 2005), 2; Smith and Daniel, *The Chicken Book*, 74.

<sup>12</sup> George R. Scott, *The History of Cockfighting*, 2<sup>nd</sup> Ed. (Surrey, UK: Triple gate, Ltd. 1983 [London: Skiltpn Ltd., 1957]), 119.

<sup>13</sup> Smith and Daniel, *The Chicken Book*, 78.

<sup>14</sup> Ibid, 98-100.

<sup>15</sup> Jane Carson, *Colonial Virginians at Play* (Williamsburg, VA: Colonial Williamsburg Foundation, 1989), 67.

<sup>16</sup> Ibid, 69.

growth of animal advocacy and its sentimental ethic of kindness. The expansion of print media left some clues about the persistence of cockfighting across the United States. Magazines, trade journals, and newspapers printed articles that described the history or “origin” of cockfighting, the contemporary state of the sport in America, and the practice of breeding and fighting gamecocks.<sup>17</sup> No wonder, considering the number of cockfighting mains taking place across the country. Undoubtedly, most of the results were recorded, disseminated, and maintained locally. Most of those records are gone. What remains accessible, though, are the results that were published in national newspapers in the second half of the nineteenth century. They reveal at least two things about cockfighting in nineteenth-century America: first, that cockfighting was taking place everywhere and often; and, second, that its appeal was broad enough that major newspapers continued to cover the fights even as postbellum humane reformers successfully campaigned against cockfighting as part of their broader push for state anti-cruelty laws.

In the second half of the nineteenth century, the sports pages in major newspapers—such as the *New York Times*, the *Chicago Tribune*, the *Boston Globe*, and the *Atlanta Constitution*—covered the regional cockfighting mains. The *New York Times* reported on mains between Boston and New York, Westchester and Dutchess, New York City and Troy; the *Boston Herald* on mains between New Bedford and Providence; the *San Francisco Chronicle* mains between San Francisco and Vallejo; the *Atlanta Constitution* on mains between Kentucky and Georgia, and between North and South Carolinas—ad infinitum, in as many combinations as could reasonably be imagined.<sup>18</sup> In many cases, cockfighting mains attracted press attention in other parts of the country. For example, the *New York Times* reported on a “cock-fighting match of extravagant proportions” between Virginia and

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<sup>17</sup> See Appendix for American print journalism on the history of cockfighting.

<sup>18</sup> See Appendix for newspaper coverage of cocking mains during the nineteenth century.

Tennessee in September of 1859.<sup>19</sup> The *Chicago Tribune* devoted an entire week of coverage in 1883 to a “national cocking main” in New Orleans.<sup>20</sup> In all cases, the reports detailed the fight-by-fight results of the main, the money that changed hands, and the winning town, city, or state. The average cockfighting report was a few hundred words long and included detail about the birds, their owners, and the audience, as well as the action that took place. (Reporters often attended the fights, or newspapers printed first-hand accounts from people with a better eye for cockfighting detail than the average journalist.) Writing about cockfighting was a bit like writing about boxing. It required attention to detail, an understanding of fighting craft, and an ability to evoke the movements that caused pain and death. In 1876, for example, the *New York Times* published the following reasonably typical account:

At last came the final struggle. They flew at each other with renewed fury. The Irish gray flew the hardest, and with a savage stroke, thrust the sharp-pointed steel deep into the other's throbbing breast. They struggled apart, and then flew at each other again. Once more the gray bird sought to finish the fight, and its heavy blow just missed the other's brain. They effort was too much for it and re-acted upon itself. It fell upon its side and was never after able to rise up. Either in the stroke or in the fall, it had broken a leg and was powerless to fight longer. As if aware of the hopeless condition of its opponent, the red bird made a last rallying effort to kill the other. With its beak it caught him by the head, holding it up, and meanwhile striking at it furiously. Three times it failed to effect a stroke; the fourth effort was more successful. Raining the head with its beak, it struck hard with both feet, and strangely enough, the left spur pierced through and through the brain. There was a sudden quivering of the body, and the gray was dead.<sup>21</sup>

The *Times* piece had action, drama, and a narrative. Not all stories aspired to such literary heights, but articles like this one appeared frequently in mainstream newspapers, keeping cockfighting in the

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<sup>19</sup> “Sporting News,” *New York Times*, September 29, 1859.

<sup>20</sup> “Cock-Fighting: Preparations for the Great New Orleans Tournament,” *Chicago Daily Tribune*, February 2, 1883; “Cock-Fighting Near Troy,” *New York Times*, February 3, 1883; “Cock-Fighting: A Series of Interesting Matches at the Interstate Series at New Orleans,” *Chicago Daily Tribune*, February 8, 1883; “National Cocking Main: Continuation of the Sport at New Orleans,” *Chicago Daily Tribune*, February 10, 1883; “Cockfighting: Fifth Night of the Tournament at New Orleans,” *Chicago Daily Tribune*, February 13, 1883; “Cockfighting: Sixth Night of the National Tournament at New Orleans,” *Chicago Daily Tribune*, February 14, 1883.

<sup>21</sup> “Midnight Cock-Fighting,” *New York Times*, June 10, 1876.

American public eye even as anti-cruelty laws began to push it to the margins of the mainstream.

Over this same period, coverage of cockfighting mains increasingly shared space in the press with coverage of the growing crusade against it. While some cockfighting stories offered descriptions of steel-gaffed action, others were about cockfighting raides, successful evasions of police, and strong words from Henry Bergh and his American Society for the Prevention of Cruelty to Animals.<sup>22</sup> In 1866, when Bergh founded the ASPCA in New York City, he made cockfighting a priority. The ASPCA's *First Annual Report* included "putting a stop to the cruelties of dog fights, cock fights and other brutal practices" as one of its principle campaigns, alongside reforms in cattle transport and the treatment of working horses.<sup>23</sup> In 1867, after the ASPCA's persistent lobbying resulted in the passage of an anti-cruelty statute in New York State, Bergh's cockfighting raids became big news stories. If a cockfight went off as planned, papers reported the usual results. If Bergh's agents busted one up, papers published a different kind of box score: the number of arrests and, in some cases, the dollar amount of the fines. The newspaper editors, who were more likely to share social worlds with reformers than with cockfighters and carriage drivers, were generally on Bergh's side. A *New York Times* editorial in 1867 called cockfighting "debasing" and a "barbarous pastime" and encouraged New Jersey to prosecute cockfighters, many of them renegade New Yorkers who had crossed the border.<sup>24</sup> The next year, another *Times* editorial praised the work of the ASPCA, finding it "unquestionable the cock-fight, the dog-fight, and all kindred diversions, are calculated to lower the national moral feeling, and ought to be suppressed."<sup>25</sup> As SPCAs and humane societies emerged in new places, usually in cities, so too did the mission to ban cockfighting.

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<sup>22</sup> See Appendix for newspaper coverage of cockfighting raids and anti-cockfighting advocacy.

<sup>23</sup> American Society for the Prevention of Cruelty to Animals, *First Annual Report* (New York: The Society, 1867), reprinted as "Humanity to Animals," *Maine Farmer*, vol. 35, no. 46 (October 24, 1867).

<sup>24</sup> "A Debasing Pastime," *New York Times*, August 18, 1867.

<sup>25</sup> "Mercy to Animals," *New York Times*, August 18, 1868.

Within five years, Pennsylvania, Illinois, and California all saw targeted campaigns. “The Society for the Prevention of Cruelty to Animals,” reported the *San Francisco Chronicle* in 1872, “are waging a persistent, energetic warfare against the cruel practice of cock-fighting, sparing no effort to stop that species of ‘sport’ in this community.”<sup>26</sup> Wherever that persistent, energetic war made inroads, papers reported on it, and both the practice and the prosecution of cockfighting stayed in the public eye.

The cultural and ethical transformation sought by animal advocates did not unfold easily or quickly, and cockfighting did not seamlessly transition from being a commonplace sport to a deviant one. Even as editorialists sided with Bergh’s crusade, sports pages in the same papers continued to report on the mains until the early twentieth century. The dissonance between, on the one hand, the illegality and growing moral concern about cockfighting, and, on the other, the continued coverage of cocking mains, was not lost on some editors. An editorial in *Forest and Stream* spoke of the “Pit, Ring and Breakfast Table,” and asked, “Why do our morning papers feel it incumbent upon them to publish full and disgusting accounts of every disreputable cock fight, dog fight, and prize fight [?]... We do not want our morning journals filled with descriptions of them. The odor of the pit is unsavory, it offends decency; why must it greet decent people at the breakfast table?”<sup>27</sup> The editorial page of the *Atlanta Constitution* even apologized in 1878 for its continued coverage of cockfighting, which it called a “brutal, useless, wanton sport, cruel to chickens and tending to brutalize those who witnesses.” Nonetheless, the *Constitution* said, “We regret to say that a portion of the reading public demand them, and we furnish them.”<sup>28</sup>

Press coverage in the nineteenth century, then, revealed three things about the place of cockfighting in American life. First, it was prevalent enough and garnered enough interest among

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<sup>26</sup> “Cock-a-Doodle-Do: A Determined Crusade Against the ‘Sports of the Arena,’” *San Francisco Chronicle*, May 8, 1872.

<sup>27</sup> “Pit, Ring and Breakfast Table,” *Forest and Stream*, vol. 11, no. 26 (January 30, 1879).

<sup>28</sup> “The Cock Fighting Folly,” *Atlanta Daily Constitution*, April 13, 1878.

the reading public that mainstream newspapers routinely covered the mains. Second, cockfighting eventually shifted from being a visible and commonplace sport to being a morally condemned, illegal, and hidden practice. And third, though popular across the nation and an important part of social life for many Americans, cockfighting was not yet spoken about in terms of American “tradition,” “heritage,” “custom,” or “culture.” It took the gradual withdrawal of cockfighting from mainstream social life in the late nineteenth and early twentieth centuries for cockfighters to make the discursive and imaginative leap of defending their sport as culture, but the roots of those claims were extant earlier. It also took a national engagement with foreign peoples for whom cockfighting was perceived, by Americans, to be a “national pastime” for stateside cockfighters to think in these terms.

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In March of 1900, while agents of moral reform raided cockpits in Philadelphia, New York City, and San Francisco, and while cockfighters found ways to carry on their favorite sport, visibly in some locales and invisibly in others, President William McKinley was organizing a Philippine Commission, charged with establishing civil government in the islands that the United States had acquired at the end of the Spanish-American War. It was headed by William Howard Taft and included Dean C. Worcester, Luke E. Wright, Henry C. Irde, and Bernard Moses. The Commission was granted broad legislative and executive responsibilities, and before settling down to develop the U.S. civil government in the Philippines, its members traveled throughout the islands observing and collecting information about geography, natural resources, and people. Like humane reformers in growing cities across America, these men, too, were animated by ideas of civilization, progress, and culture as America grew beyond its continental boundaries.

Daniel Roderick Williams, who served as Private Secretary to Commissioner Moses, and who later became Secretary of the Philippine Commission, kept a record of the trip. His diary entries

were published in 1913 as *The Odyssey of the Philippine Commission*. Visiting Cavite in late-October/early-November, Williams noted that the town seemed empty, because “most of the natives appeared to be at the cockpit.” That was no surprise to the Commission and its staff. Before arriving in the Philippines, they were already aware of the place of cockfighting in Philippine life. “Cock fighting is the national sport of the Filipino masses,” Williams wrote, “their feathered champions forming an intimate part of the family circle and receiving an affectionate care scarcely second to that given children.” Several members of the entourage visited Cavite’s cockpit. It seemed to them a place where natives gathered to engaged in a practice deeply rooted in their social life. It was, after all, their “national sport.” “Filipinos of education admit the sport to be vicious and brutalizing, and a serious menace to the moral and material progress of their people,” Williams observed. “As man does not live by bread alone however the problem of uprooting evil is intimately linked with the other question of furnishing the people some more legitimate pastime in its stead.”<sup>29</sup>

Members of the Commission visited at least two more cockpits, one in Dagupan and another in Baoang, and in each case, they witnessed manners and values that would need changing if the United States was to achieve its stated goals of Philippine progress, uplift, and self-governance. The Commission visited Baoang in June of 1901, when Commissioner Worcester gave a town hall speech about self-government. “Most of the people were at the cockpit,” Williams noted, “but upon call of the president they adjourned in a body to hear about the blessings of free government. Mr. Worcester gave them a talk and they went back to their cockpit utterly unconscious of the humor of adjourning a Sunday cock fight to listen to a dissertation on self-government.”<sup>30</sup>

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<sup>29</sup> Daniel Roderick Williams, *The Odyssey of the Philippine Commission* (Chicago: A.C. McClurg & Co., 1913), 99.

<sup>30</sup> Ibid, 259-260; James A. Le Roy, Dean C. Worcester’s private secretary during the same trip, also described cockfights at length in his book, *Philippine Life in Town and Country* (New York: G.P. Putnam’s Sons, 1905): “There is no need for insisting upon the essentially degrading nature of the pastime of cockfighting, nor upon the evil that has been wrought in the Philippines by the gambling connected with the sport, which gambling, moreover, has seemed to bear an official sanction in so far as the Government participated in the returns from the sport under the form of licensed monopoly.”



Moral and material progress, self-governance, civilization: these were the stated goals of the United States in the Philippines, and in the islands of Cuba and Puerto Rico, specious though the goals might have been. Achieving those goals would require massive reforms in education, government, infrastructure, labor, morals, and behavior. Philippine social practices, from clothing to hygiene to gender relations to financial habits, became invested with ideological and discursive significance under U.S. occupation.<sup>31</sup> Back in the United States, moral and humane reformers were spreading the message that cockfighting was cruel, barbarous, and rooted in the values of a different, less civilized era. In the Philippines, cockfighting became one of the many uncivilized practices that needed reforming. To men and women charged with transforming Philippine society, though, cockfighting was more than just a social practice: it was a “national sport,” as Daniel Williams put it. That was problematic term, of course, one that conveniently and imaginatively homogenized diverse groups into one for the sake of making broad arguments about civilization and modernity. But such was the cultural significance of cockfighting. Cultural reform would, as Williams wrote, require that Filipinos cast aside their “vicious and brutalizing” national sport for a “some more legitimate pastime in its stead.”

Investing cockfighting, cockpits, and cockfighters with fraught cultural meanings was not new. Over a century before anthropologist Clifford Geertz would see in Balinese cockfighting a practice loaded with meanings about society and culture, travelers were fascinated by the cockfights that took place in Southeast Asia, the Caribbean, and Mexico. Travelers often commented on the

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<sup>31</sup> Historians have extensively documented these discourses in all their variety. Amy Kaplan and Donald E. Pease, *Cultures of U.S. Imperialism* (Durham: Duke University Press, 1993); Gail Bederman, *Manliness & Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (Chicago: University of Chicago Press, 1995); Jacobson, *Barbarian Virtues* (2000); Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico* (Berkeley: University of California Press, 2002); Shelley Streeby, *American Sensations: Class, Empire, and the Production of Popular Culture* (Berkeley: University of California Press, 2002); Eric T. Love, *Race Over Empire: Racism and U.S. Imperialism, 1865-1900* (Chapel Hill: University of North Carolina Press, 2004); Amy S. Greenberg, *Manifest Manhood and the Antebellum* (Cambridge: Cambridge University Press, 2005); Paul Kramer, *The Blood of Government: Race, Empire, the United States, and the Philippines* (Chapel Hill: UNC Press, 2006).

cultural importance of cockfighting in the places they visited. An early example came from an English missionary, John Barrow, who visited China in 1805 and wrote, “One of their favorite sports is cockfighting,” which he called a “cruel and unmanly amusement.”<sup>32</sup> Most often, travel writers described cockfighting in any number of foreign lands as a “national sport” or “national pastime.” Many travelers considered it a debasing, uncivilized practice, and evidence of cultural backwardness. For example, the author of “In Matagalpa,” which appeared in the *Los Angeles Times* on March 5, 1895 described cockfighting in Nicaragua this way: “Cock-fighting is the principal sport of the day,” the author claimed. “The cockpit is usually a wild scene of swearing, shouting, drunken humanity... Cock-fighting in any sense is a cruel sport, much more so as practiced by the Nicaraguans.”<sup>33</sup> Even as cockfighting remained popular in the United States, cockfighting in foreign countries presented something different to many travelers who published accounts of trips to Bali, Java, Mexico, Nicaragua, Venezuela, and other places.

This tendency was especially marked in narratives published about the territories that the United States would acquire in 1898. The Philippines, Cuba, and Puerto Rico were all known to be islands of cockfighting well before they came under the jurisdiction of the U.S. federal government and military. On Cuba, a writer for *Ladies’ Magazine and Literary Gazette* observed in 1832 that cockfighting on the island remained prevalent despite a decrease in another cruel and uncivilized sport, bullfighting: “Were it not for that the kindred amusement of the cock-pit is still very popular,” the author wrote, “I should hang a hope on this fact that mind is advancing here. But this last fact seems to forbid it. All classes engage in the diversion of cock-fighting. Even the Governor has a Pit[.]”<sup>34</sup> The *Athenaeum* of London reported in 1834 that in Puerto Rico, “The worst vice is cock-

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<sup>32</sup> Smith and Daniel, *The Chicken Book*, 76.

<sup>33</sup> “In Matagalpa,” *Los Angeles Times*, March 5, 1895. For other examples, please see Appendix.

<sup>34</sup> “Cuba,” *Ladies’ Magazine and Literary Gazette*, vol. 5, no. 4 (April 1832)

fighting, which seems to be a national passion.”<sup>35</sup> The Philippines attracted special attention for its cockfights. As the *Spirit of the Times* reported in 1843, “cock-fighting is the favorite amusement of the Inhabitants of Manila[.]”<sup>36</sup> A drawing of a Manila that appeared in *Ballou’s Pictorial Drawing-Room Companion* in 1857 depicted two men holding gamecocks. The caption explained, “The Indian with a gamecock under his arm is a characteristic feature; you continually see persons carrying about their birds, for their chief amusement is cock-fighting.”<sup>37</sup> Travel narratives such as these helped turn cockfighting from a widespread practice into cultural practice. It was the “national sport” of the islands.

Some travel narratives featured racialized, visceral, and caricatured depictions of cockpits and cockfighters meant to convey the dehumanizing, barbarous nature of this national sport. A writer for *Lippincott’s Magazine* in 1874 described a “frenzied” scene in which “[t]he ordinarily placid, indolent native forgets, with the debut of his favorite game-fowl, all his constitutional sluggishness, physical and mental: his eyes gleam like those of a fiery serpent, his slight figure dilates with intense excitement, and a nervous tremor is apparent in every motion.”<sup>38</sup> An especially lurid description of the Philippine cockpit appeared in one of the best-known travel narratives from this period, *Travels in the Philippines*, which was published in 1873 by a German ethnologist, Fedor Jagor. Pit-side, Jagor wrote, “[t]he sight is one extremely repulsive to Europeans. The ring around the cockpit is crowded with natives, perspiring at every pore, while their countenances bear the imprint of the ugliest passions...” Jagor saw the cockfights as both evidence and cause of degeneracy among the native

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<sup>35</sup> “An Account of the Present State of the Island of Puerto Rico,” *The Athenaeum* (London), October 18, 1834.

<sup>36</sup> “Cock-Fighting in the Philippine Islands,” *Spirit of the Times* (New York) vol. 13, no. 30 (September 23, 1843), 353.

<sup>37</sup> “Scenes in Manilla,” *Ballou’s Pictorial Drawing Room Companion*, vol. 13, no. 20 (November, 14, 1857).

<sup>38</sup> Fannie R. Feudge, “A Tour in the China Seas,” *Lippincott’s Magazine of Popular Literature and Science* (Philadelphia), vol. 14 (August 1874), 148.

population: “It is very evidence that these cock-fights must have a most demoralizing effect upon a people so addicted to idleness and dissipation, and so accustomed to give way to the impulse of the moment.”<sup>39</sup>

If cockpit scenes such as these presented Filipinos as barbarous, brutal, and immoral, the demoralizing effects of cockfighting seemed to permeate Philippine society more generally. Writers perpetuated a bizarre, yet often repeated rumor that Philippine men were so invested, emotionally and financially, in their gamecocks that they’d sooner save them from a fire than rescue their wives or children. The original source of the rumor is probably lost, but the earliest extant example seems to have appeared in the *Spirit of the Times* in 1837, when the magazine reprinted a letter to the editor of the *Boston Post*, which claimed: “The ruling passion of the nation is gambling, and of all forms cock-fighting seems the most popular. Every man you meet has a game fowl under your arm; and so great is their fondness for them, that at a late fire, which consumed a large number of huts, a fellow neglected his only child, and left it to perish in order to save a favorite cock.”<sup>40</sup> This rumor appeared in similar form over and over again in the ensuing decades. Major newspapers reported it, including the *Boston Globe*, the *Detroit Free Press*, and the *Los Angeles Times*.<sup>41</sup> Even the *New York Times*, while its sports pages reported results of American cockfights, said of Philippine men in 1898 that, “should his hut take fire, his first thought is of this favorite, which, having secured, he leaves the rest to

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<sup>39</sup> Fedor Jagor, *Travels in the Philippines* (London: Chapman and Hall, 1875), 27-28.

<sup>40</sup> “Manilla,” *Spirit of the Times*, vol. 7, no. 25 (August 5, 1837), 198

<sup>41</sup> “Philippine Rebellion,” *Boston Globe*, May 2, 1898; “Sport in the Philippines,” *Detroit Free Press*, July 24, 1898; “Manila Cocks: Chicken Fighting in the Philippines is a Favorite Sport,” *Los Angeles Times*, July 10, 1898. From the *Boston Globe*: “It is claimed that many a respectable paterfamilias has been seen escaping from amid the ruins of his burning home bearing away in his arms his favorite bird, while wife and children were left to shift for themselves.” From the *Detroit Free Press*: “The men think more of their birds than of their wives and children. In case of fire they seize them and run; afterward, if it is not too late, they think of their families.” From the *Los Angeles Times*: “Nearly every native throughout the Philippines keeps a fighting cock... The cock eats, crows and sleeps in the arms of his master, who is so devoted to him that he prefers his bird to his wife, or children, and when his straw or bamboo hut catches fire, which frequently happens, the cock is the first occupant to be saved.”

fate.”<sup>42</sup> If readers doubted the truth of these rumors, they would have had only to consult the

*Encyclopedia Americana*, which included the following passage from 1903 until 1947:

In the Philippine Islands cock-fighting is pushed almost to the verge of a craze. Nearly every village has its pit, and every peasant his cock. The peasant, too, is said to rescue his fighting-cock rather than his wife or child in the event of a fire, and wherever he goes he takes it with him.<sup>43</sup>

It’s impossible to know how influential a claim like that might have been on forming impressions of America’s new “cousins,” but it’s also impossible to deny the power of such an allegation.

These many travel narratives, concerned as they were with capturing cultural essences, presented the widespread practice of cockfighting as a “national,” culture-embodying activity for Cubans, Puerto Ricans, and Filipinos. The language that depicted the practice and its practitioners was often unambiguous in its moral judgment. Demoralizing, barbarous, brutal, indolent, ignorant, repulsive, ugliest passions, bedlam, national vice—these were the words that defined Cubans, Puerto Ricans, and Filipinos as readers in Britain and the United States encountered them at imagined cockpits. Well before the United States took control of these islands, then, they were already cockfighter “nations,” even as the United States was still very much a cockfighter nation itself.

In the mid-1890s, an explosion of information about the islands and their peoples appeared in magazines, newspapers, and books. Americans were taking stock of their country’s new imperial direction, and the stakes of these mediated narrative encounters had changed. The status of the islands with respect to the United States was unclear and the discourse surrounding their status was confusing. Would these islands become states? Would Puerto Ricans, Cubans, and Filipinos become citizens? Would they move to the United States? Would Americans potentially move to the islands, like a young girl from rural Wisconsin seeking a new life in Chicago? What did the future of America

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<sup>42</sup> “Cockfighting in Manila,” *New York Times*, September 4, 1898

<sup>43</sup> Frederick Converse Beach, ed. *The Encyclopedia Americana*, Vol. V (Chicago: The Americana Company, 1903); Alexander Hopkins McDannald, *The Encyclopedia Americana*, Vol. VII (Chicago: Americana Corp, 1947). Located in the entry for “Cock-Fighting.”

look like? Who did the future of America look like? Reading about Cubans, Puerto Ricans, and Filipinos didn't answer those questions, but it did provide knowledge and context about what sort of people would perhaps be future citizens and neighbors—citizens and neighbors who fought cocks... not unlike, of course, the many Americans that did, too.

Everywhere American readers turned in 1898 they found descriptions of foreign peoples now called their “little brothers” or “cousins”—how they lived, worshipped, worked, ate, and played. Cuba, Puerto Rico, and, especially, the Philippines were everywhere in American newspapers at this moment. And so were their cockfights. Like pre-1898 travel narratives, many of these accounts deployed cockfighting as key evidence in a critique of native character, morality, and culture that, depending on the author, proved that these island populations needed the United States to civilize and govern them, or that they were too primitive and foreign to be governed or assimilated. “The chief diversion of Manila is the cock fight,” the *Washington Post* reported in a piece entitled “Facts About the Philippines”: “The pit is as big as a circus... The chief occupation of some of the savage natives is murder... The land is fertile but the natives are too indolent and ignorant to cultivate it with the best results.”<sup>44</sup> Voices of influence echoed these sentiments. Colonel W. Winthrop, former Professor of Law at West Point and an Assistant Judge Advocate General in the U.S. Army, wrote of the “Problem of the Philippines” for *Outlook* and warned that the “Indian of Manila, who comprise the mass of the population, are its most unprofitable, uncertain, and dangerous element... [they are] perpetual idlers, who go from cockpit to cockpit, those universities of every vice.”<sup>45</sup>

Questions of annexation, migration, and citizenship were never very far from the surface in

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<sup>44</sup> “Facts About the Philippines,” *Washington Post*, June 18, 1898

<sup>45</sup> Colonel William Winthrop, “The Problem of the Philippines: Racial, Commercial, and Social Conditions,” *Outlook*, vol. 59, no. 6 (June 11, 1898), 377-378.

these critiques. “If there is anything more cruelly and atrociously shocking than a Cuban cock-fight,” a reporter for the *Los Angeles Times* wrote in 1895, “different eyes than mine have seen them,” and if Cuba were to be annexed, “the first thing the authorities should do would be to put the stamp of everlasting condemnation upon such practices.”<sup>46</sup> That same year, Rep. Robert R. Hitt, Chairman of the House Committee on Foreign Affairs, visited Haiti and San Domingo, partly to assess whether the island could be annexed. One incident convinced him that it would be impossible, when negotiations of an international treaty were adjourned to attend a cockfight. The U.S. commissioners went to the fight as a courtesy, and when they arrived at the pit, according to Hitt, they encountered the Chief Justice of the Supreme Court and the Secretary of War. “This is a fair sample of the habits of the people with whom we were brought in contact during our sojourn in Hayti and San Domingo, and most assuredly they would not prove an acquisition desired by the United States... they have no ideas above bull and chicken fighting,” he wrote. “Such neighbors are not capable of either governing or being governed, and therefore ought not be made citizens of the United States.”<sup>47</sup>

Cockfighting in Cuba, Puerto Rico, and the Philippines was therefore weighted with social and cultural meanings for American observers. In press accounts of the islands, a single, widespread practice involving a fight-to-the-death between two roosters became a “national sport” that proved entire peoples to be barbarous, uncivilized, and indolent. In short, they seemed so unlike Americans that it would be difficult to imagine them being capable of democratic self-government, American citizenship, or cultural assimilation: racial anxieties that were, at the same moment, being projected domestically onto new immigrants from Southern and Eastern Europe.<sup>48</sup> Even as cockfighting

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<sup>46</sup> “Ungodly Cuba: Sunday Cockfighting in Catholic Havana,” *Los Angeles Times*, April 23, 1895.

<sup>47</sup> “Cock fighting in San Domingo,” *Chicago Daily Tribune*, January 29, 1896.

<sup>48</sup> Jacobson, *Whiteness of a Different Color* (1999), generally.

remained popular in many parts of the United States, these foreign cockpits seemed sites of serious vice, immorality, and racialized passions. Cockfighting was “universal” and “national” on these islands, and therefore in its barbarism and cruelty a thickly meaningful representation of cultures that were, take your pick, uncivilized, barbarous, primitive, and yet now part of the American family.

The cockpit was partly an imagined site where Americans constructed meanings about Cubans, Puerto Ricans, and Filipinos. But after American military authorities took control of the islands in 1898 the cockpit also became a key site of U.S. occupational policy, which entailed reforms of morals, behavior, and culture, in addition to reforms of law, politics, labor, and infrastructure. “They are a like a lot of children, and need to go to school of Uncle Sam” one letter-writer to the *New York Times* explained in January of 1899. “They do not yet know what is for their own good. They seem anxious only to indulge in cockfighting feuds and vendettas. Ignorance is darkness.”<sup>49</sup> For American civilians, bureaucrats, and legislators, reforming island life, society, and culture meant reforming a defining practice of island life, society, and culture: cockfighting. And by continuing to fight cocks, Filipinos resisted—some with intention and others without—the effects of cultural imperialism.

Among the first reforms instituted in Cuba, Puerto Rico, and the Philippines were bans on cockfighting by order of the U.S. military. In the Philippines, a military order in May of 1899 banned cockfighting within the city limits of Manila.<sup>50</sup> In Cuba, General George W. Davis, Military Governor of the Department of Pinar del Rio, issued an order prohibiting cockfighting in that province. The *New York Times* reported that the order was “applauded by the best elements in the community” (a statement that could just have easily applied to cockfighting in, for example, Maine,

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<sup>49</sup> “As to the Philippines: The Filipinos Need Us,” *New York Times*, January 15, 1899.

<sup>50</sup> “Meddling with Native Customs,” *Chicago Daily Tribune*, May 6, 1899.



which criminalized it in 1903).<sup>51</sup> Other provinces, including Mantanzas and Santa Clara, followed suit, and in October of 1899, the Civil Governor of Havana, General Rius Rivera, declared cockfighting illegal in the island's capital. He issued a proclamation about the ban in which he said of cockfighting, "such contests are against good morals and good customs."<sup>52</sup> By June 1, 1900, cockfighting became illegal throughout Cuba, with violators subject to a \$500 fine.<sup>53</sup> In Puerto Rico, a military order banned cockfighting in May of 1899, but it took two years of legislative efforts for a full ban to go into effect, after the island's Attorney General determined that the military ban had not been sufficient.<sup>54</sup>

These initial bans were just the first step in a decade-long struggle between, on the one hand, the cockfighters of Cuba, Puerto Rico, and the Philippines, and on the other, the American bureaucrats, legislators, educators, and reformers who considered the sport "against good morals and against good customs." The laws were difficult to enforce. Cockfighting remained enormously popular on the islands. Some people were unaware of the laws, and those who were aware had been fighting cocks their whole lives and were not inclined to honor their new occupiers' bans. In Puerto Rico, the Chief of Police for San Juan responded by saying that he was a supporter of cockfighting and that he would neither arrest offenders nor seek out illegal pits.<sup>55</sup> In the Philippines, an early

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<sup>51</sup> "General Davis Prohibits Cockfighting," *New York Times*, January 21, 1899; Animal Protection of New Mexico, "Cockfighting Ban States by Year," [http://www.apnm.org/campaigns/cockfighting/ban\\_dates.html](http://www.apnm.org/campaigns/cockfighting/ban_dates.html) (accessed March 13, 2013).

<sup>52</sup> "Liberty Not License: Cock Fighting a Thing of the Past in Cuba," *Los Angeles Times*, May 14, 1899; "No More Cock-Fighting in Mantanzas," *New York Times*, May 14, 1899.

<sup>53</sup> "Cockfighting to be Stopped in Cuba," *New York Times*, April 20, 1900.

<sup>54</sup> "Making New Laws for Porto Ricans," *New York Times*, December 27, 1900; "Cockfighting in Porto Rico: Attorney General Harlan Decides that it is Illegal," *New York Times*, May 14, 1901; "Cockfighting Illegal in Porto Rico: Islanders to be Denied Their Chief Amusement," *Los Angeles Times*, May 15, 1901; "Cockfighting is a Crime: National Sport of Porto Ricans Under Ban," *Atlanta Constitution*, May 15, 1901; "Humane Bill for Porto Rico: Legislation for the Suppression of Cruelty to Animals is Promised," *New York Times*, March 9, 1902.

<sup>55</sup> "Cockfighting in Porto Rico," *New York Times*, May 14, 1901.

attempt to enforce the law resulted in confusion, violence, and death. U.S. soldiers arrived at a cockfight that had been regularly advertised in the past and that generally attracted a thousand people, mostly native Filipinos, but also U.S. servicemen and civilians. According to the *Chicago Daily Tribune's* account of the raid, nobody at the pit was aware that "United States officials disapproved of the sport," and therefore, it came as a great surprise when "just before the cockfight began an officer entered, and, drawing his sword, declared the whole assemblage under arrest." One local man tried to flee, and soldiers opened fire, killing him and wounding several others. Many Filipinos were arrested, but the Americans in attendance were allowed to go free. "Death is rather a severe penalty for the offense of witnessing a cockfight," said the *Tribune's* editorial page, "especially when the spectators did not know that it was illegal."<sup>56</sup>

These campaigns to produce "good morals and good customs" through cockfighting bans were met with some stateside defenses of cockfighting that emphasized the relativism of customs and morals, and the likelihood that local peoples would react negatively to forced cultural change. On news that American authorities had banned cockfighting in Manila, for example, the *Chicago Daily Tribune* editorial page called the decision a "grave error." "Cock-fighting is the one universal pastime of the Filipinos," the *Tribune* claimed. "They see no more harm in it than an American does in riding a bicycle or playing baseball." The *Tribune* urged the United States to take a lesson out of the British colonial playbook, which had achieved "success in India" by having "consideration for the customs and beliefs of the natives." The *Tribune* warned that the sudden ban "would have the same effect on the Filipino mind as abolishing baseball would have on Americans or forbidding cricket would have on an Englishman."<sup>57</sup>

Some writers noted that Americans were in no position to take the moral high ground in its

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<sup>56</sup> "Liberty in Manila," *Chicago Daily Tribune*, August 15, 1899.

<sup>57</sup> "Meddling with Native Customs," *Chicago Daily Tribune*, May 6, 1899.

occupied islands when cruelty to animals was a favorite pastime among some Americans. A pigeon shoot scheduled to take place on Long Island in 1901 prompted *Life* magazine to ask, “What will be thought of a government, or public conscience, that permits pigeon shooting on Long Island and prohibits cock-fighting in Havana and Manila?” Compared to pigeon shoots, where several thousand pigeons were shot almost immediately after being released from cages, cockfights were “elevating and moral.” “[W]e tell the Cubans and the Filipinos that it is naughty in them to fight cocks and we can’t permit it,” *Life* noted, “[b]ut to presume to get the mote out of Tagal and Cuban eyes while such beams obscure our own vision is nauseating.”<sup>58</sup> Another beam in the eye was, of course, America’s own penchant for cockfighting. The *Chicago Daily Tribune* noted the irony of the United States banning cockfighting abroad when a self-proclaimed “national” cocking main was scheduled to be held in Vicksburg, Mississippi, just one of many states in which cockfighting was still considered something of a “national sport.” “Cubans and Filipinos who are incensed because the American government has put an end to cock fighting, their national sport, will be highly edified” to learn that cockfighting was still ongoing and legal in parts of the United States, the *Tribune* reported. The United States “stopped chicken fighting in the colonies on the grounds that it was cruel and barbarous, and not to be tolerated by an enlightened civilization.” The spectacle of a national cocking main being held legally in Mississippi would no doubt “have the effect of impressing the inhabitants of the colonies with the idea that the government has not kept faith with them.”<sup>59</sup> The *Tribune* piece was as much a comment on America as on Cuba and the Philippines. When it came to cruelty, culture, and cockfighting, ideas about civilization, progress, and modernity in America’s new islands offered this Chicago paper an opportunity to comment on civilization, progress, and modernity in rural Mississippi.

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<sup>58</sup> Editorial, *Life*, vol. 37, no. 963 (April 18, 1901).

<sup>59</sup> “Great Cocking Main: To Be Held in a Public Park in Vicksburg, Miss,” *Chicago Daily Tribune*, January 18, 1903.

Puerto Rico, Cuba, and the Philippines all followed different paths in terms of cockfighting legalization. In Cuba, protests demanded the restoration of cockfighting, but the sport would remain illegal until the newly independent republic re-legalized it as a first order of business in 1909. In Puerto Rico, it was re-legalized in 1933 after several years of petitions, legislation, and vetoes. In both cases, blanket bans on cockfighting created contests over cultural sovereignty that took time to settle. (More on this later.) In the occupied Philippines, ending cockfighting became part of the process of gradual cultural change that American authorities and pro-interventionists called “benevolent assimilation” or “uplift”—changes in morals, customs, and behaviors through law and education that would theoretically lead Filipinos on a path toward self-government—and of the complicated process by which Filipinos engaged those changes.<sup>60</sup>

Banning cockfighting in Manila was the first impulse of the American military, but the transition from American military to civilian rule saw the Manila ban overturned. Philippine cockfighters would simply not abide the ban and regulation seemed the only feasible option for American authorities. The *Manila Charter: An Act to Incorporate the City of Manila*, which took effect in 1901, empowered the Municipal Board of Manila to “license and regulate, or suppress cock-fighting and cock-pits.”<sup>61</sup> U.S. newspapers reported that change was due to difficulties enforcing the ban. “It has been found that it is practically impossible to prohibit the national sport,” the *Boston Daily Globe* reported. The *Detroit Free Press* similarly reported that, in its design, the charter “recognized the popular interest in the pastime and does not attempt to prohibit it entirely,” and rather, that it was “designed mainly to regulate all such affairs so as to make them as unobjectionable as possible.”<sup>62</sup> The same principle was applied to other municipalities in the Philippine islands under the *Municipal*

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<sup>60</sup> Kramer, *The Blood of Government*, 169, 192.

<sup>61</sup> *The Manila Charter: An Act to Incorporate the City of Manila, Enacted by the United States Philippine Commission, July 31, 1901* (Manila, P.I.: United States Philippine Commission, 1901), 12.

<sup>62</sup> “Cock Fighting in Manila,” *Boston Daily Globe*, July 30, 1901; “Sports of the Filipinos,” *Detroit Free Press*, August 3, 1901.

*Code and Provincial Government Act*. By continuing to fight cocks despite new laws, Filipinos forced these laws to conform to their customs. For American authorities, these new codes would permit cockfighting, but in prescribed ways. Cockfighting would be confined to licensed pits and would take place only on Sundays, holidays, and feast days. There would be no gambling—a constant source of concern alongside the cruelty of cockfighting—and violators would be punished. Visions of men and boys walking with gamecocks under their arms and fighting cocks in the streets, long popular in travel accounts of the Philippines, would presumably disappear.<sup>63</sup>

The law on cockfighting was settled, but for the next two decades, cockfighting remained a consistent source of concern for American authorities, a culture-defining feature of Philippine life for American observers, and a regular social practice for Filipinos. Cockfighting remained, above all, the national sport of the Filipinos in the eyes of travel writers and American commentators. Travel accounts—such as Mary Helen Fee’s *A Woman’s Impression of the Philippines* (1910); William Llewellyn Adams’s *Exploits and Adventures of a Soldier Ashore and Afloat* (1911); and Norma Waterbury Thomas’s *Janet and Jack in the Philippines* (1918)—continued to emphasize cockfights.<sup>64</sup> American newspapers continued to print articles like “Game Cock Fighting Under the American Flag,” “Chicken Fighting Joy of Filipinos,” “Filipino Cock Fight,” and as late as 1921 the *New York Times* was describing the Philippines as “The Islands of the Fighting Cocks.”<sup>65</sup> And the veracity of claims about the central importance of cockfighting to Philippine life was confirmed when they appeared in academic

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<sup>63</sup> *The Municipal Code and Provincial Government Act: Being Act No. 82, Entitled “A general Act for the Organization of Municipal Governments in the Philippine Islands,” and Act No. 83, Entitled, “A General Act for the Organization of Provincial Governments in the Philippine Islands,” Revised*. (Manila: Bureau of Public Printing, 1905), Acts 480 and Act 1189.

<sup>64</sup> Mary Helen Fee, *A Woman’s Impressions of the Philippines* (Chicago: A.C. McClurg & Co., 1910); William Llewellyn Adams, *Exploits and Adventures of a Soldier Ashore and Afloat* (Philadelphia: J.B. Lippincott Company, 1911); Norma Waterbury Thomas, *Janet and Jack in the Philippines* (West Medford, MA: The Central Committee on the United Study of Foreign Missions, 1918).

<sup>65</sup> “Game Cock Fighting Under the American Flag by the Festive Filipinos,” *National Police Gazette*, May 16, 1903; “Chicken Fighting Joy of Filipinos,” *Chicago Daily Tribune*, October 17, 1909; “Filipino Cock Fight,” *Los Angeles Times*, November 2, 1909; “The Islands of the Fighting Cocks,” *New York Times*, February 13, 1921.

volumes such as C.H. Forbes-Lindsay's *America's Insular Possessions* (1906); Hugo Miller's and Charles Storms's *Economic Conditions in the Philippines* (1913); W. Cameron Forbes (Governor-General of the Philippines, 1909-1913), *The Philippine Islands* (1928).<sup>66</sup> These sources certified that "the national sport of the Filipinos," was, indeed, "cock-fighting."<sup>67</sup>

The encoding of regulations for cockfighting also did not mean that cockfighting stopped being an object of bureaucratic management for the U.S. government in the Philippines. Regulations and licensing did not signal that American authorities had accepted cockfighting as a legitimate Philippine custom that merited preservation. They continued to approach cockfighting as a vice that needed eradicating. Even as the *Report of the Philippine Commission* enumerated licensing revenues from cockpits, which provided 64% of all such revenues between 1905 and 1906, it recorded how many municipalities had issued no cockpit licenses, as if to gauge the effect of moral and educational reform.<sup>68</sup> Reform would be gradual, as many critics of the Manila ban had once urged, and it would focus on reforming younger generations for whom the cockpit had not yet become a tradition.

Education became the route by which cultural change would be made for future generations. Moral and humane reformers working to eradicate cockfighting in a modernizing United States were complemented by reformers who went to aid in the civilizing mission in the Philippines. Opposition to cockfighting became a tenet of educational reform. In 1908, for example, the Philippine Teachers' Association submitted a resolution to the Municipal Board of Manila in protest of its decision to

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<sup>66</sup> C.H. Forbes-Lindsay, *America's Insular Possessions: Vol. 2, The Philippines* (Philadelphia: J.C. Winston, Co. 1906); Hugo H. Miller and Charles H. Storms, *Economic Conditions in the Philippines* (New York: Ginn and Company, 1913); W. Cameron Forbes, *The Philippine Islands* (Cambridge, MA: Riverside, 1928).

<sup>67</sup> Forbes-Lindsay, *America's Insular Possessions*, 418.

<sup>68</sup> U.S. Philippine Commission, "Report of the Collector of Internal Revenue," *Report of the Philippine Commission, Vol. IX, Part 3, Fiscal Year Ended June 30, 1906* (Washington: D.C.: GPO, 1907), 83; U.S. Philippine Commission, "Report of the Secretary of Finance and Justice, Fiscal Year Ending December 31, 1913" and "Report of the Secretary of Finance and Justice, Fiscal Year Ending December 31, 1914," in *Report of the Philippine Commission, July 1, 1913 to December 31, 1914* (Washington, D.C.: GPO, 1914), 233, 255.

approve the Philippine Carnival Association's request to stage a cockfight. Calling the cockfight "a most noxious vice," the resolution stated that the mission of Philippine educators was to bring Filipinos to a "more progressive stage of life"; that the United States was seeking to "deter all injurious vices that might have an evil effect upon the moral progress and civilization of the people"; and that the carnival should be displaying the "progress, ability and the state of civilization of the Philippine Islands."<sup>69</sup> Educators considered themselves to be on the front line in a process of uplifting Philippine life and culture, and cockfighting was a powerful threat to their mission. And they were especially concerned with their own charges—young people for whom cockfighting had not yet become a habit, even as it remained an entrenched part of adult culture.

Curricular reforms became the main tool for educators in their crusade against the cockpit, and the most important curricular reform in that crusade was the establishment of organized athletics in schools. Led by Frank R. White, the Director of Education, and W. Cameron Forbes, Governor General from 1909 to 1913, schools pushed Philippine students toward field sports, basketball, football, and, especially, America's national sport, baseball—a sport that the *Manila Times* described as "more than a game, a regenerating influence or power for good."<sup>70</sup> White and Forbes both considered American sports to be inherently civilizing and morally uplifting, but thought they could be especially effective as recreational alternatives to cockfighting. White hinted that the new curricular emphasis on athletics was designed to eradicate cockfighting in his *Tenth Annual Report of the Director for the Philippine Islands*, in which he reported, "Everywhere they are training into the Filipino youth a spirit of friendly rivalry, and are displacing former questionable pastimes."<sup>71</sup> He

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<sup>69</sup> *The Filipino Teacher*, Vol. 1, No. 11 (February 1908), 7.

<sup>70</sup> Qtd. In Gerald R. Gems, *The Athletic Crusade: Sport and American Cultural Imperialism* (Lincoln: University of Nebraska, 2006), 49.

<sup>71</sup> Bureau of Education, Department of Public Instruction, *Tenth Annual Report of the Director of Education for the Philippine Islands*, July 1, 1909 to June 30, 1910 (Manila: Bureau of Printing: 1910), 39.

made the point more directly in the next year's report, in which he described organized athletics as a "comprehensive, organized movement" that was sweeping the islands. In a report filled with team photos of Philippine youths posing in baseball and track uniforms, White made clear that his department was using the civilizing national sport of American baseball to replace the barbarous national sport of Philippine cockfighting. It was, fundamentally, a form of cultural transplant. "What this means to the youth of the country can be appreciated by comparing the pastimes of to-day with those of a decade ago in the Philippines," White reported in 1911.

The appeal of baseball is now more urgent than that of the cockpit, and the latter institution, though ancient, must give way to the newer and cleaner sport wherever they come into competition. This new spirit of athletic interest has swept upon the boys and girls with a force that is actually revolutionary, and with it comes new standards, new ideals of conduct, and what is more important, new ideals of character.<sup>72</sup>

Between 1909 and 1920, the Department of Education claimed to have achieved a total transformation of the morals, character, civilization, culture, and even bodies of Philippine youths, achieved, in part, by supplanting cockfighting with baseball and other American athletics. The *Sixteenth Annual Report of the Director of Education for the Philippine Islands* described the development of "a generation of fine upstanding young men," and concluded, "when the history of this first half of the twentieth century comes to be written, athletics will be given much of the credit for the physical and civic betterment of the Filipino people."<sup>73</sup> If the iconic vision of nineteenth-century Philippine culture had been of a man holding a gamecock, according to the Department of Education, the twentieth-century vision would be of a young man holding a baseball bat.

This new vision of Philippine culture was widely disseminated in the 1910s. U.S. newspapers printed stories about the success of baseball in changing Philippine culture. "Baseball Displacing

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<sup>72</sup> Bureau of Education, Department of Public Instruction, *Eleventh Annual Report of the Director of Education for the Philippine Islands*, July 1, 1910 to June 30, 1911 (Manila: Bureau of Printing, 1911), 31.

<sup>73</sup> Bureau of Education, Department of Public Instruction, *Sixteenth Annual Report of the Director of Education for the Philippine Islands*, January 1, 1915 to December 31, 1915 (Manila: Bureau of Printing, 1915), 32.



Cockfighting as Philippines' Pastime," reported the *Detroit Free Press*. The *Boston Daily Globe* described how baseball had begun to "supplant cockfighting in his affection" and was "recognized as a distinct influence in the civilization of the natives."<sup>74</sup> American leaders made similar claims. Writing on American progress in the Philippines for *Munsey's Magazine* in 1914, Dean Worcester, member of the first Philippine Commission, emphasized the success of the athletics programs and prophesized the death of cockfighting on the islands. "It empties the cockpits to such an extent that their owners and beneficiaries have attempted to secure legislation restricting the days on which baseball may be played," he wrote.<sup>75</sup> W. Cameron Forbes, looking back on his tenure as Governor-General in his two-volume book, *The Philippine Islands* (1928) remembered the rise of baseball and the decline of cockfighting as one of the great successes of the American occupation up until that time. "One of the most notable achievements of Americans in the Islands," Forbes wrote, "has been the diversion of the attention of the young people from the cockpits, with their attendant vice of gambling, to the more healthful and vigorous competitive outdoor sports."<sup>76</sup>

These words capped what, at the time, seemed to have been a successful experiment in cultural assimilation and moral uplift. Of course, cockfighting did not end in the Philippines with the induction of baseball, and it's unlikely that baseball ever had the culture-transforming influence the authorities imagined it did. By 1923, the *Los Angeles Times* was reporting that baseball, "which was expected to replace cockfighting here, is dying out in the Philippine islands," due to lack of public interest and an absence of encouragement by the Department of Education, which had previously "engaged in fostering the national game in the islands, with a view to eliminating the island sport of

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<sup>74</sup> "Baseball Displacing Cockfighting as Philippines' Pastime," *Detroit Free Press*, August 2, 1912; "Baseball Booms in Philippines," *Chicago Daily Tribune*, September 1, 1912; "Baseball as a Civilizer," *Boston Daily Globe*, August 3, 1912

<sup>75</sup> Dean C. Worcester, "Out Fifteen Years' Work in the Philippines," *Munsey's Magazine*, Vol. LI (February to May, 1914), 86.

<sup>76</sup> Forbes, *The Philippine Islands*, 454-455.

cock-fighting.”<sup>77</sup> Cockfighting did not end, but American interest in it seemed to wane after the supposed moral victory of baseball’s induction. Any number of answers might account for the shift. Maybe American authorities truly believed that they had mostly eradicated cockfighting. Maybe they decided that they could never stamp out this national sport. Maybe the gradual transition of governance from U.S. rule to commonwealth status, which the Philippines received in 1935, made cultural assimilation less necessary than when the Philippines had seemed like a possible candidate for annexation. Regardless, the athletics episode marked the peak of U.S. interest in the Philippines’ national sport, and the final act of a long process of attempted cultural management and transplantation. At all times, the stakes of American interest in cockfighting were morals and customs, civilization and modernity. To American authorities, cockfighting was more than a bad habit. It was a cultural practice that was entrenched in tradition and time, and an indication that Philippine society was uncivilized and needing reforms of body, mind, and behavior. Eradicating cockfighting was a key part of U.S. imperial policy in the Philippines, and a key part of constructing the racial ideologies that gave those policies shape. By continuing to fight cocks, Filipinos revealed the limits of those policies.

Contemporaneous with this history, things were unfolding differently in Cuba. Battling cockfighting in the Philippines entailed a constant, decades-long, calibration of Philippine cultural development, while, in Cuba, a blanket ban on cockfighting prompted contests over cultural sovereignty that saw Cubans using cockfighting to make vocal claims about their own cultural and political rights. Resistance to the cockfighting ban was immediate, organized, and political, and it made overt appeals to Cuban custom, tradition, and culture. Within months of the military ban on cockfighting, Cubans were already demonstrating in public and submitting petitions asking that their national sport be legalized. In January of 1901, the legalization campaign made headlines in U.S.

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<sup>77</sup> “Baseball in Manila,” *Los Angeles Times*, September 2, 1923; “Baseball is Dying Out in the Philippine Islands,” *Atlanta Constitution*, August 2, 1923; “Philippine Cockpits Escape Hard Times,” *Washington Post*, July 10, 1932.

newspapers after a “mounted delegation of two hundred Cubans” appeared before the U.S.-appointed Military Governor of Cuba, Leonard Wood, and requested that their “time honored amusements” (cockfighting) be restored. U.S. papers reported, “There seems to be a general movement in the district of the islands to secure cockfighting.”<sup>78</sup> Governor Wood took no action. Episodic protesting and petitioning continued without success. The following year, in September of 1902, the Provincial Council of Havana approved and submitted to Congress a motion that would have followed the policy of the Philippines by giving provincial councils the power to permit and regulate cockfighting locally.<sup>79</sup> Congress took no action, and two months later five hundred Cubans demonstrated before the presidential palace in favor of legalization. They held signs proclaiming cockfighting to be their national sport and a tradition, and many held gamecocks in their arms.<sup>80</sup> Demonstrations still failed to overturn the ban, and there seemed little sign of change in 1905, when the Cuban Congress failed to pass a bill that would have legalized the sport. Using language that continued to emphasize the fundamental cultural importance of Cuban cockfighting, the bill described “the legendary diversion of the Cuban people” as “natural” and the “typical entertainment of the farmer,” for whom it provided “solace” and an “expansion and recreation of spirit.”<sup>81</sup>

Cockfighters’ progress stalled until January of 1907, when several leading Cuban politicians were arrested at a cockfight. The previous year, the United States had reestablished its rule over the island and installed Charles Edward Magoon as governor. The cockfighting raid highlighted the

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<sup>78</sup> “Cock Fights Dear to Cuban Hearts,” *Atlanta Constitution*, January 28, 1901; “Want to Revive Cock Fighting: A Petition Presented by a Committee of Cubans,” *Detroit Free Press*, January 28, 1901; “Want Cock Fighting Again: A Mounted Delegation of Cubans Call on General Wood,” *New-York Tribune*, January 28, 1901; “Cubans Want Cockfighting,” *New York Times*, January 28, 1901; “Cubans Want Cock Fights,” *Washington Post*, January 28, 1901.

<sup>79</sup> “Cubans Want Cock-Fighting: Motion Annuling the Military Order Prohibiting it Introduced in Congress,” *New York Times*, September 12, 1902.

<sup>80</sup> “Havana Wants to Fight Cocks,” *Atlanta Constitution*, November 11, 1902; “Cubans March to the Palace,” *Chicago Daily Tribune*, November 11, 1902; “Cock Fight Advocates Turned Down by Palma,” *Detroit Free Press*, November 11, 1902; “Parade of Cock Fighters,” *New-York Tribune*, November 11, 1902.

<sup>81</sup> “Cockpit for the Cuban Farmer,” *Washington Post*, July 3, 1905.

fissures in culture and custom, real or imagined, between Cubans and their occupiers. Among those arrested at the cockfight was General Jose Miguel Gomez. At the time he was a Liberal candidate for the presidency of Cuba, an office he would win in 1908. Also arrested was General Pino Guerra, a former revolutionary leader. In court, Guerra, Gomez and the other defendants claimed, according to the *Washington Post* that “they did not intend to break the law, but only wished to make a demonstration of Cuba’s national sport to some high American army officers.”<sup>82</sup> Two weeks later, Guerra and other political leaders reaffirmed their right to fight cocks when they hosted a fair in the Vueltabajo district that featured “an elaborate programme of cockfighting.” The *New York Times* described the event with this headline: “Cubans Defy Authorities: Announce Cockfighting and Gambling Games at a Fair.”<sup>83</sup>

The arrests prompted another large demonstration in which Cubans continued to demand cockfighting legalization, and with it, the restoration of cultural sovereignty. On February 24, 1907, a little over a month after the arrests, a parade of five hundred Cubans on horseback arrived at the palace to submit to Governor Magoon a petition signed by several thousand Cubans. It read, “We, the citizens of Havana, in mass meeting assembled, smarting under the wrongs inflicted by the provisional military government, petition for the restoration of our ancient rights, the privilege of holding mains for cock-fighting.” The crowd made appeals to both Cuban and American nationalism, chanting “Vivan Los Americanos” as well as “Vivan Los Gallos” (Gallos are gamecocks). A band played the Cuban national anthem and the “Star Spangled Banner.”

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<sup>82</sup> “Raid on Cuban Statesmen: Pino Guerra and Gomez Among the Prisoners at a Cockfight,” *New York Times*, January 15, 1907; “Cuban Leaders Caught in Cock-Fighting Raid,” *San Francisco Chronicle*, January 15, 1907; “Surprised at Cock Fight: Jose Miguel Gomez, Cuban Liberal Candidate for President, Arrested,” *Washington Post*, January 15, 1907; “Witnessing Cock Fight Cuban Leaders are Taken,” *Atlanta Constitution*, January 16, 1907; “Cuban Editor is Thrashed,” *Atlanta Constitution*, January 18, 1907; “Beaten Because of Cock Fight Story,” *San Francisco Chronicle*, January 18, 1907; “Editor Twice Challenged,” *Washington Post*, January 18, 1907; --- “Cock Fight to Cause Duels,” *Atlanta Constitution*, January 19, 1907; “Challenged to Duels,” *Los Angeles Times* --- “Presidential Candidate Fined for Cock Fighting,” *Atlanta Constitution*, January 22, 1907; “Noted Cubans are Fined,” *Washington Post*, January 22, 1907.

<sup>83</sup> “Cubans Defy Authorities: Announce Cockfighting and Gambling Games at a Fair,” *New York Times*, February 1, 1907.

The competing discourses that had long animated U.S. discussions of foreign cockfighting—that it was both inimical to civilized self-government and a cultural right—also reappeared. A writer for the *Los Angeles Times* adopted the self-governance critique, and said of Cubans, “They have more interest in cockfighting than they have in legislation... it is impossible to get one hundred Cubans to act together for any serious political purpose, but one hundred thousand will gather to demand cockfighting.” The *San Francisco Chronicle*, meanwhile, adopted the cultural rights argument, insisting in an editorial, “We should not seek to change the settled Cuban customs.” “The ways of Latin America are not our ways and we do not like them,” said the *Chronicle*, “but they are the ways of Latin America and they do like them and should be permitted to enjoy them until they change them of themselves. Cock-fighting may not seem to us a proper amusement, but it is the national sport of all Latin America and we were fools to interfere with it during our military occupation a few years ago.”<sup>84</sup>

In 1909, Cubans took control of their own island and did “change things of themselves.” They inaugurated previously arrested cockfighter Jose Miguel Gomez as their new president and convened a new Cuban Congress, with the majority of its members, according to U.S. news reports, “openly announcing that a bill providing cockfighting will be one of the first measures to be introduced.”<sup>85</sup> The decision to prioritize the cockfighting bill was a clear statement of cultural and political sovereignty by the newly elected Cuban legislators. It was the culmination of a decade of struggles over morals and customs, one that pitted Cuban cockfighters and their political allies, for

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<sup>84</sup> “Beg for Cockfights: Cubans Parade in Havana and Present a Petition to Magoon,” *New York Times*, February 25, 1907; “Cubans Want Cock-Fighting: Petition Signed by Thousands Asking that Pastime be Restored,” *San Francisco Chronicle*, February 25, 1907; “Cuba Libre,” *Detroit Free Press*, February 26, 1907; “Cuban Affair is Unsettled,” *Los Angeles Times*, March 4, 1907; “Cock Fighting: Cuban Lovers of the Sport Parade Before American Governor Magoon,” *Washington Post*, March 6, 1907; “Cuban Cockfighting: Decree Forbidding Pit Contests Soon May be Abrogated by Secretary Taft,” *Los Angeles Times*, March 7, 1907; “We Meddle Too Much: We Should Not Seek to Change the Settled Cuban Customs,” *San Francisco Chronicle*, April 19, 1907.

<sup>85</sup> “Cuban Congress Has Convened,” *Atlanta Constitution*, January 14, 1909; “Cuban Congress Meets in Havana,” *Chicago Daily Tribune*, January 14, 1909; “Cuban Congress Meets,” *New-York Tribune*, January 14, 1909.

whom cockfighting represented a national tradition in the face of an occupying power, against American military and civil authorities, for whom cockfighting represented barbarism and unfitness for democratic self-government.

In the end, both sides were partly vindicated. Cubans legalized cockfighting, announcing the island's freedom from occupation and reaffirming the morals and customs that Americans had sought to change. For some Americans, though, it just proved that Cubans were incapable of self-government. As the *Washington Post* remarked ironically in an editorial on the occasion, "With bullfighting, lotteries, and cockfighting reestablished, Cuba vindicates its right and ability to govern itself."<sup>86</sup> The idea that cockfighting made people incapable of self-government seemed confirmed on June 30, 1909, when the Cuban Congress adjourned with the House and Senate having failed to pass a budget before the July 1 deadline mandated by the Constitution. Cockfighting was the problem. The House had approved a budget and sent it to the Senate for modifications. But, as the *New York Times* reported, "The Senate... after devoting much time to a bill legalizing cockfighting, which was passed, made sundry minor modifications in the budget," and sent it back to the House for final approval, unaware that the House had already adjourned. Having failed to approve the budget by the constitutional deadline, the Cuban Congress put the legitimacy of their newly formed state in doubt. Cuba, a newly independent nation, had restored its national sport of cockfighting. Some Americans, though, saw an uncivilized cockfighter nation unable to govern itself.

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In February of 1898, just days after the sinking of the *U.S.S. Maine* and shortly before the beginning of a war that would see the United States seize the cockfighter "nations" formerly ruled by Spain, Americans at home were celebrating a relatively new holiday, Washington's Birthday, known today as President's Day. For the occasion, the *Boston Globe* published a piece of satirical dialogue. "Work

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<sup>86</sup> Untitled, *Washington Post*, May 19, 1909.

on February 22?” asked one man. “Well, I guess not! I’ve got my opinion of a man who won’t knock off work on the birthday of the Father of his Country.” His friend inquired in response, “What are going to do that day?” The first man lowered his voice and answered, “I’m going to a cock fight.”<sup>87</sup>

According to American cockfighters in the early twentieth century, there would be no greater patriotic act on Washington’s Birthday than to fight cocks. While reformers across the United States were campaigning to ban cockfighting along with other acts of animal cruelty, and while the federal government was attempting to transform through law and education the manners and customs of newly occupied cockfighter nations in Cuba, Puerto Rico, and Philippines stateside cockfighters were mounting their own cultural defense of the sport. According to them, the United States was founded on cockfighting. It was the sport of Washington, Jefferson, and Lincoln. The gamecock was nearly America’s national bird and not the bald eagle. It was America’s national sport, and they were preserving in a country that was rapidly forgetting its roots.

As cockfighting became cruel in modern America, cockfighters wrapped it in a protective garb of heritage, history, tradition, and culture. It is impossible to say where turn-of-the-century cockfighters got their historical facts and when whispers around the cockpit about illustrious cockfighters of American history turned into a full blown mythology about American culture and the nation’s founding. What can be said is that sometime in the early decades of the twentieth century, while humane reformers aimed to turn the United States into a country that universally embraced modernity, progress, and ethics of animal welfare, American cockfighters turned the United States into a cockfighter nation. Later in the twentieth century, they would use this founding myth to defend cockfighting against the inevitable tide of legal prohibition by claiming, as Cubans had while struggling for independence, that the sport was their national pastime and their cultural right.

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<sup>87</sup> “Patriotism and Poultry,” *Boston Daily Globe*, February 19, 1898.

This national mythology must have taken shape around nineteenth-century cockpits as cockfighters looked around them and saw a changing legal and cultural world. Its codification and dissemination seems to have begun at the turn of the century, with the establishment of national magazines devoted to cockfighting: *Grit and Steel*, founded in South Carolina in 1899; the *Feathered Warrior*, founded in Kentucky in 1903; and *Game Fowl News*, founded in North Carolina in the early 1900s. (A fourth magazine, the *Gamecock* was founded in Arkansas in 1935.) For more than a century, these specialty magazines advertised mains, feed, fighting and training equipment, and breeding fowl.<sup>88</sup> They filled a growing gap in cockfighting coverage left by the sports pages of major newspapers. Early issues of these magazines are very hard to find, but the stories that likely circulated within their pages slowly filtered out to mainstream press, revealing how a cockfighting subculture that was increasingly localized and rural was beginning to imagine itself in national terms. An early example of the mythology's entrance into mainstream discourse came in 1907, when Andrew O'Connor of Norfolk, Virginia, wrote to the *Washington Post* after future President of Cuba, Jose Miguel Gomez, had been arrested at a cockpit. O'Connor called cockfighting "the oldest of all sports," dating it to "558 years before the birth of Christ." "Our own Gen. Washington and Andrew Jackson might have been arrested on the same charge," he wrote, "had the laws which now exist against the sport, been in force in their day. Both old heroes were attached to the sport, and even to-day, the strain which were fought so successfully by Jackson are still bred in their purity, and are known all over this country as 'Old Hickory's.'"<sup>89</sup> It was stories such as this one that American cockfighters told to themselves and to each other about the place of their sport in American culture.

It took time for this narrative to emerge from the pit where it was born. In the 1910s and

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<sup>88</sup> In 2007, they went out of business after the Humane Society sued Amazon.com, which had become their main distributor, claiming that the Animal Welfare Act made it illegal to distribute by mail any materials that promoted animal fighting.

<sup>89</sup> "Cock-Fighting Presidents: News of Arrests in Cuba a Shock to Virginia Sportsmen," *Washington Post*, February 4, 1907.



1920s, the practice of cockfighting continued openly in the places where it was legal and quietly where it was not, which, by 1930, was every U.S. state except for nine.<sup>90</sup> It was not until the late 1920s and 1930s that the cockfighter mythology would enter the mainstream press through the work of several journalists who, rather than report cockfighting results in sports pages, wrote long-form essays that presented cockfighting as an enduring example of rural and Southern folk culture. These journalists reported on cockfighting for the *Southwest Review*, *Fortune*, and H.L. Mencken's *American Mercury*, which published four pieces about Southern cockfighting between 1929 and 1942.<sup>91</sup> These writers visited cockpits; spoke to cockfighters; paid attention to rules, codes, and practices; and read *Grit and Steel*, the *Feathered Warrior*, *Game Fowl News*, and the *Gamecock*. The body of writing they produced fit alongside contemporary documentary accounts of Depression-Era rural America, and, in keeping with the conventions of that genre, they treated cockfighting as a rural American tradition rooted in the past and preserved against the rolling tide of modernization. The cockfighter mythology fit perfectly into that narrative in the 1930s, just as it would in the late twentieth century, when cockfighting became embroiled in the culture wars that pitted rural against urban, Christian against secular, traditional against progressive, and conservative against liberal.

Representative of the group was a piece by James Agee, who published "Cockfighting" in *Fortune* in 1934. Agee presented cockfighting as a thriving national subculture, writing that it held "a

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<sup>90</sup> Animal Protection of New Mexico, "Cockfighting Ban States by Year," [http://www.apnm.org/campaigns/cockfighting/ban\\_dates.html](http://www.apnm.org/campaigns/cockfighting/ban_dates.html) (accessed March 13, 2013); Dating cockfighting bans is difficult to do with precision, because cockfighting was sometimes banned under a state's anti-cruelty statute, and sometimes banned by either the explicit insertion of anti-cockfighting language into the existing anti-cruelty statute or by writing a specific anti-cockfighting statute. Also, the interpretation of these laws was very inconsistent. A state appeals court judge might read a statute one way, but a local sheriff in charge of actually enforcing it might not apply it to cockfighting.

<sup>91</sup> William Henry Nugent, "Cock Fighting Today," *American Mercury*, vol. 17, no. 65 (May 1929); Robert Lane Anderson, "Chicken Fight," *American Mercury*, vol. 30, no. 117 (September 1933); James Agee, "Cockfighting," *Fortune*, 1934, reprinted in Paul Ashdown, ed. *James Agee: Selected Journalism* (Knoxville: University of Tennessee Press, 2005); Wayne Gard, "Rooster Fight," *Southwest Review*, vol. 22, no. 1 (October 1936); "Howard Powel, "The Game Cock," *American Mercury* 41.162 (June 1937); Edward Jerome Volger, "Cock Fighting in Florida," *American Mercury*, vol. 54, no. 220 (April 1942)

definite place in the sporting life of the nation,” even if, by this time, it was absent from “the sports columns of the *New York Times* or the *Chicago Tribune*.”<sup>92</sup> “Racing or boxing or baseball may be the national pastimes of the masses in all great U.S. Cities,” he wrote. “But in the little towns and lonely rural stretches which are still American, cockfighting is the people’s sport.”<sup>93</sup> These ideas animated the cockfighter mythology, which Agee seemed to hear directly from the cockfighters’ mouths, and if not, then from their published mouthpieces. “Rugged individualists are these rooster worshipers,” he wrote, “and they will remind you that the eagle was chosen to symbolize the U.S. by only two votes over the cock.”<sup>94</sup> To similar ends, Agee noted the illustrious history of cockfighting presidents. “U.S. Gamecocks have an honorable but confused ancestry,” he claimed. “Until the Revolution most were of pure English blood. Such were the birds General Washington imported from New Orleans and asked Thomas Jefferson over to Mount Vernon to see. Such were the valiant cocks Andrew Jackson bred even after he got to the White House.”<sup>95</sup> Agee’s cockfighting story was therefore partly about rural, regional, and local culture. It was about a rural America that was losing its people, its wealth, and its way of life in a transforming nation. But it was also about the ways in which that culture represented (or was imagined to represent) American culture at large. Cockfighting was by that time identified mainly with the rural South, but it was “still American” in its cultural history.

Other pieces of cockfighting journalism told similar stories of the American past and present. In addition to boilerplate claims about Washington and Jefferson, William Henry Nugent, in a piece for *American Mercury* in 1929, described how Andrew Jackson, “as a young law student at

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<sup>92</sup> Agee, “Cockfighting,” 25.

<sup>93</sup> Ibid, 28.

<sup>94</sup> Ibid, 26.

<sup>95</sup> Ibid, 28.

Salisbury, N.C. copied a recipe to feed cocks that is now preserved among his papers in the Library of Congress.” Howard Powel, in a 1937 piece for the same periodical, added, “Benjamin Franklin favored the cock rather than the ‘somewhat cowardly eagle’ as our national bird.”<sup>96</sup> Both Nugent and Powel cited *Grit and Steel*, *The Feathered Warrior*, the *Gamecock*, and *Game Fowl News* in their pieces, and it’s likely that they, like Agee, either heard these stories from cockfighters at the pit or from reading their magazines. Wayne Gard, who published “Rooster Fight” in the *Southwest Review* in 1936, heard the mythology pit-side in Texas. There he encountered a “teacher from a jerkwater college, here for the first time,” who was “remind[ing] himself defensively that the Welsh used to hold cock-fights in churchyards and that Henry the Eighth and George Washington and even Grover Cleveland were patrons of the sport.”<sup>97</sup> Just as cockfighters used their mythology to imagine themselves as local practitioners of a national pastime, journalists trying to capture the cultural essence of rural America found in the mythology a way to think about rural folk culture as American culture, heritage, and tradition.

This period also saw the first book-length treatment of American cockfighting, *Courage: The Story of Modern Cockfighting* (1938), which was animated by the same impulses as other cockfighting journalism and written by a North Carolina journalist named Tim Pridgen. For his research, Pridgen traveled around the United States, attended cockfights, interviewed cockfighters, and read cockfighting magazines. He noted in his acknowledgments that the editor of *Grit and Steel*, Ed H. DeCamp, had helped him to prepare the final manuscript. Owing no doubt to his immersion in the cockfighting fraternity, Pridge emphasized the national mythology as key part of his narrative. “At no time in the history of the United States did the sport ever reach greater heights than during Washingtonian days,” he wrote:

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<sup>96</sup> Nugent, “Cock Fighting Today,” 78; Powel, “The Game Cock,” 189.

<sup>97</sup> Gar, “Rooster Fight,” 65.

The city of Washington became a great cocking center. Traditions still exist of many brilliant cockfights staged in the privacy of committee rooms in those seasons when Congress was in session. Great figures of American history moved through this picture, giving the sport a background which more than at any other time in this country elevated it to a point approaching its best days in England. At these clandestine committee-room pits we may assume that George Washington not only was present but was there to back his own cocks and to see them pitted against those of Thomas Jefferson or some of the other first battlers from South Carolina and Virginia.<sup>98</sup>

Pridgen's cockfighter mythology was more extravagantly detailed than those of his contemporaries, none of whom, for example, claimed that cockfights took place in Congressional committee rooms. Agee wrote that Washington and Jefferson might have fought cocks at Mt. Vernon; Pridgen moved those fights to the center of early American governance. He also claimed many more American heroes as cockfighters than contemporary journalists had. In addition to Washington, Jefferson, and Jackson, he named Henry Clay, John C. Calhoun, and Martin Van Buren as devotees of the pit.<sup>99</sup> Not only did these great heroes of early America enjoy cockfighting; cockfighting actually explained their greatness. Pridgen wrote of Washington, Jefferson, Jackson, and Lincoln that "each had a quality of character that made him great and made him a cocker." In the language of the cockpit, each man was "dead-game"—fearless and tenacious. In times of war, Washington and Lincoln took lessons from the pit. When his men were beaten and tired, "Cockfighter Washington had seen his roosters almost slaughtered and still come crowing from the pit. He knew how to make an army do likewise." Lincoln's decision to oppose disunion and fight the South in the Civil War similarly "took gameness." The decision promised slaughter, but "Lincoln was a cockfighter."<sup>100</sup>

These journalists disseminated to mainstream readers a mythology that might have remained

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<sup>98</sup> Tim Pridgen, *Courage: The Story of Modern Cockfighting* (Boston: Little, Brown and Co., 1938), 90.

<sup>99</sup> Ibid, 129.

<sup>100</sup> Ibid, 182-184.

hidden to all but members of the cockfighting fraternity, and, indeed, that would remain hidden, except among the fraternity, for years to come.<sup>101</sup> It was perhaps these publications that led the American Humane Association to observe in 1937, “cockfighting has again raised its ugly head in the United States,” particularly in the South, and, a year later, to mock cockfighters over their historical claims.<sup>102</sup> Humane reformers continued to argue that cockfighting was barbaric, cruel, uncivilized, and a thing of the past. In this sense, cockfighters in America were subject to some of the same language of social hierarchy that Cubans, Puerto Ricans, and Filipinos were subject to under American occupation. If cockfighters in America conceded that cockfighting was a thing of the past, it was a noble past, one worth preserving, and one deeply connected to everything that America represented. In 1933, cockfighting became illegal in Georgia. There were eight cockfighter states left, but cockfighters were determined. “Law and public opinion have done what they could to stamp it out,” the *Washington Post* reported in 1935, “but they have succeeded only in driving it into the byways and rural sections of America where other survivals of earlier times still live on.”<sup>103</sup>

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If the history of cockfighting in the early years of American empire had been written in Cuba and the Philippines, then in 1933, that history turned toward Puerto Rico. Travel narratives about Cuban, Puerto Rican, and Philippine cockfighting had offered a way for American readers to experience foreign lands and their peoples. Those were mediated encounters charged with racial

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<sup>101</sup> The mythology appeared a few times during the 1930s in major newspapers as well, perhaps as a direct consequence of these works, and often in connection with Presidents’ Day. “Lincoln was Good at Bowling Game,” *Los Angeles Times*, July 16, 1928; “Abraham Lincoln’s Home Town,” *Washington Post*, February 9, 1930; “First in the Hear of His Countrymen,” *Washington Post*, January 18, 1932; “Gov. Cross Depicts Humane Washington,” *New York Times*, February 23, 1932; “The Politician: Along the Path of Washington Today,” *Daily Boston Globe*, March 12, 1932; “Cockfighting Goes on in Secret,” *New York Times*, May 26, 1935.

<sup>102</sup> “Cockfighting Revival in America,” *National Humane Review*, vol. 25, no. 7 (July 1937), 26; “Mister Grit and Mister Steel: Truth About Cockfighting Right from the Fighters’ Beaks,” *National Humane Review*, vol. 26, no. 8 (August 1938), 22.

<sup>103</sup> “Outlawed Cockfighting,” *Washington Post*, July 12, 1935.

meanings. When cockfighting in Puerto Rico finally became legal after three decades of U.S. rule, airlines, cruise lines, travel agencies, and Puerto Rico's bureau of tourism invited Americans to experience the island first-hand. Agents of tourism sold trips by selling culture, and selling culture meant selling cockfights. Meanwhile, the integration of Puerto Rico into American life was already well underway, and not just as a tourist destination. In 1917, Puerto Ricans became citizens of the United States, and by the end of the 1920s, they began immigrating to the United States in large numbers.<sup>104</sup>

The notion that stateside Americans would be interested in watching a Puerto Rican cockfight was central to the lifting of the ban on cockfighting in 1933. By the 1920s, the Puerto Rican legislature had the votes to amend the island's anti-cruelty statute to permit cockfighting, but U.S.-appointed governors responded with vetoes.<sup>105</sup> Things changed when Robert H. Gore was appointed governor in 1933. Like most places, Puerto Rico was suffering financially during the world depression, and Gore thought legal cockfights might attract American tourist dollars. Within a week of his inauguration, Gore gave a speech championing the legalization of cockfighting. He also attended a cockfight at the home of Senate President, Rafael Martinez Nadal, a cockfighter, gamecock breeder, and one of the island's most outspoken champions of restoring Puerto Rico's national pastime.<sup>106</sup> Gore's plan called for government control of cockfighting, and for a seasonal, government-sponsored "carnival of cockfighting" that would attract Americans eager to experience

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<sup>104</sup> Mae N. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004), 100; Lorrin Thomas, *Puerto Rican Citizen: History and Political Identity in Twentieth-Century New York City* (Chicago: University of Chicago Press, 2010).

<sup>105</sup> "Cockfightin Bill Fails in Porto Rico," *New York Times*, June 3, 1928; "Beverly Bars Cockfighting, Vetoing Puerto Rican Bill," *New York Times*, April 6, 1933.

<sup>106</sup> "Puerto Rico Governor is Guest at Cock-Fight," *New York Times*, July 9, 1933.

Puerto Rican culture.<sup>107</sup> (He didn't say so, but he might have been hoping the seasonal cockfights would appeal to American cockfighters living in states where the sport was illegal.) On August 14, 1933, Gore signed the bill into law. For the occasion, he used a quill pen made from the tail feathers of a gamecock raised by Senator Nadal. The rooster's name was "Justicia."<sup>108</sup> Gore may have seen tourist dollars at the end of the pen, but the cockfighters of Puerto Rico saw the restoration of their national pastime and cultural right. They saw justice. The American Humane Association saw something else entirely. "We are supposed to be in command in the interests of civilization," the AHA responded a month after the signing. "We have made its people American citizens and sought to imbue them with American ideals. There is no such thing as cockfighting in the realm of American ideals."<sup>109</sup>

Despite the protests of animal advocates, within five years, the Government of Puerto Rico's Institute of Tourism was using cockfights to advertise Puerto Rico as a place that was both recognizably American and exotic, or, as a U.S. Supreme Court justice had described the island in 1901: "foreign in a domestic sense."<sup>110</sup> The Institute of Tourism's first national ad campaign appeared in December, 1938 in several major American newspapers, including the *Chicago Tribune*, *New York Times*, *Boston Globe*, and *Washington Post*. The "11-Day Sun Package..." invited American tourists to "Discover Puerto Rico, U.S.A.," where they could experience both a "modern resort-life with the glamour of old Spain." Amidst the "dazzling tropic beauty with the romance of four

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<sup>107</sup> "Recovery is Urged as Puerto Rico Aim," *New York Times*, August 3, 1933; "Gov. Gore Calls for Legal Cockfights in Porto Rico," *Boston Daily Globe*, August 3, 1933; "Puerto Rico Governor Urges Recovery Acts," *Atlanta Constitution*, August 3, 1933.

<sup>108</sup> "Cock-Fight Bill Signed by Puerto Rico Governor," *New York Times*, August 15, 1933; "Cock-Fight Bill Signed by Gore," *Los Angeles Times*, August 15, 1933; "Sports: American Governor Permits Cock Fighting in Porto Rico Again," *New Amsterdam News*, August 30, 1933.

<sup>109</sup> "Cockfighting to Lure Tourists to Puerto Rico," *National Humane Review*, vol. XXI, no. 9 (September 1933), 17.

<sup>110</sup> Thomas, *Puerto Rican Citizen*, 3.

centuries,” tourists could participate in “golf, tennis, sea-sports,” and other parts of the “modern resort-life,” and then pay a visit to the “native cockfights.”<sup>111</sup> In an advertisement that sold Puerto Rico as simultaneously American and foreign, as modern and pre-modern, cockfighting was the “native” practice that Americans tourists could experience outside the familiarity of an American-style resort.

This advertising strategy remained the same when Puerto Rico became a full-fledged tourist destination for American travelers in the 1950s, thanks to the advent of affordable air travel and increased spending power for middle-class families. Throughout the 1950s and 1960s, advertisements for Puerto Rican vacations and write-ups in the “Travel” sections of American newspapers promised beaches, golf, and cockfights. In 1949, the Puerto Rico Visitors Bureau (formerly the Institute of Tourism) released an advertisement that announced, “Puerto Rico is in love with sports!” In addition to baseball, sailing, and gambling, tourists were promised “the fury of a cockfight.”<sup>112</sup> Bull Lines, a New York-based cruise line, promised “horse racing, cockfights, gambling casinos, bizarre shops” in a series of advertisements that ran in 1950 and 1951.<sup>113</sup> In 1966, Eastern Air Lines advertised a trip that “takes you to coves, castles and cockfights.” Featuring a photograph of a Puerto Rican man in a straw hat playing a drum in front of palm trees, it described Puerto Rico as “another world.” “You’ll visit Old San Juan and El Morro Castle,” promised the air line, “and, if you’re brave, the cockfights.”<sup>114</sup>

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<sup>111</sup> Government of Puerto Rico, Institute of Tourism “11-Day Sun Package...” (advertisement), December 1938, *Chicago Daily Tribune*, *New York Times*, *Daily Boston Globe*, *Washington Post*.

<sup>112</sup> Puerto Rico Visitors Bureau, “Here’s Why People come back to Beautiful Puerto Rico!” (advertisement), October 23, 1949, *New York Times*.

<sup>113</sup> Bull Lines, “Puerto Rico! There’s Magic in the Cruise” (advertisement), December 10, 1950, *New York Times*, *Daily Boston Globe*, *Washington Post*; Bull Lines, “7 reasons for taking Bull Line’s 11-day cruise to Puerto Rico and Dominican Republic” (advertisement), January 1951, *New York Times*, *Chicago Daily Tribune*, *Daily Boston Globe*, *Washington Post*.

<sup>114</sup> Eastern Air Lines, “288 Takes You to Coves, Castles and Cockfights” (advertisement), June 7, 1966, *Chicago Tribune* and June 8, 1966, *Boston Globe*.



Travel journalists reviewing those vacations for American readers similarly emphasized cockfighting in their stories. In the process, they continued the tradition of nineteenth-century travel writers who had presented cockfighting as a defining cultural practice of the islands. “Puerto Rico has been American for 50 years, but for 400 years before that, it was a Spanish colony,” a *Boston Globe* review reported in 1967. “From the Puertorriqueno point of view, the best sport is still cockfighting.” For tourists interested in attending a cockfight, the *Globe* made some recommendations. “Tourists aren’t usually at cockfights,” the *Globe* warned, “but since it’s such an essential part of Puerto Rican life, it’s not to be missed any more than a bullfight in Spain. The clerk at your hotel can recommend a gallera.”<sup>115</sup> In the nineteenth century, it had been travel writers captivating American audiences with tales of a foreign land and people they would likely never encounter first-hand. In the 1950s and 1960s, it was travel advertisers and journalists who enticed American tourists to visit and experience the foreignness of America’s island commonwealth by observing the native or “national sport” of cockfighting, a custom immersed in 400 years of history that seemed distinctly pre-modern and non-American.<sup>116</sup>

Of course, these foreigners were not very foreign at all. After 1917, Puerto Ricans were American citizens whether or not they ever set foot on the mainland United States. Many Cubans, Filipinos, and Puerto Ricans were already Americans, having migrated in large numbers to America by the 1960s. Puerto Ricans settled primarily in New York City, which experienced what some people called a “Great Migration” in the 1950s. Arriving in America, they lived among fellow citizens, some of whom, at that very moment, might have been considering a vacation to Puerto Rico or Cuba, where they would sit on the beach, play golf, and, if they felt like experiencing some

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<sup>115</sup> “In Puerto Rico, It’s Chicken Every Sunday,” *Boston Globe*, October 1, 1967.

<sup>116</sup> See Appendix for examples of travel writing and advertising during this period.

native culture, ask their concierge where they might find a cockfight. It should come as no surprise then that cockfighting would feature in public debates about immigration, assimilation, and multiculturalism in modern America—about how diverse groups of people within a single country, state, or community would relate to one another in terms of “culture.”

When Puerto Ricans and other Caribbean immigrants arrived in New York and in other cities, many did not fight cocks but some did, and the arrests that inevitably followed tended to raise questions of cultural difference and assimilability. The ASPCA had mostly succeeded in pushing cockfighting out of the heart of New York City, and it had been a long time since cockfighting raids were familiar news items. When cockfighting reappeared in the 1930s, the explanation was an obvious one to the *New York Times*, which described a 1938 police raid in Spanish Harlem this way: “Most of the oral excitement which none of the policemen could translate was probably made up of cries like ‘Matalo’ (‘Kill him!’) or ‘Veinte mi gall’ (‘Twenty on my bird!’), followers of the sport suggested.”<sup>117</sup> The *Times* imagined a cultural clash, one in which American (presumably white) policemen found themselves suddenly transported to a foreign world. Coverage of a raid three years earlier, in 1935, had similarly emphasized cultural, national, and racial dissimilarity. Police discovered two gamecocks tethered in the kitchen of a Harlem apartment on 110<sup>th</sup> Street. They belonged to a man named Raymond Perez and “had been sent to him from Puerto Rico.” The *Times* noted that the landlord, Generosa Gonzalez, who seemed aware that her tenant was keeping the gamecocks, “came from Puerto Rico four years ago.”<sup>118</sup> The implication was obvious: Puerto Rican immigrants were socially and culturally different: they kept gamecocks in their kitchens and fought them to the death in their living rooms.

Press attention to cockfighting arrests in the 1950s and 1960s continued to emphasize

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<sup>117</sup> “Raid on Cockfight Nets 48 in Harlem,” *New York Times*, March 28, 1938.

<sup>118</sup> “2 Gamecocks Seized in a Harlem Kitchen,” *New York Times*, June 27, 1935.

cultural foreignness among Puerto Rican immigrants in the United States. (Some of these stories homogenized all Latinos, but the rise in this period of broader discourses about Puerto Ricans and cultural assimilation led to them receiving special attention for their cockfights.)<sup>119</sup> In 1955, police officers arrested fifty-two people at the Long Island home of Frederico Rodriguez. The *Times* explained, “the sport is popular in Latin America but illegal here.”<sup>120</sup> A raid in Brooklyn in 1959 turned up a fighting pit in a cellar and nine gamecocks. Two residents of the home were arrested, “both former residents of Puerto Rico,” reported the *Times*, “where cock-fighting is a popular sport.”<sup>121</sup> In 1966, a bust in Chicago netted twenty-one arrests. The men were fighting cocks in a “dirt-floor basement.” The investigating officer informed the *Chicago Tribune*, “[A]ll the participants were Puerto Rican. Cockfighting is legal in Puerto Rico.”<sup>122</sup> Animal advocates contributed to this discourse. In 1962, the ASPCA specifically pointed to Puerto Rican culture as the reason for cockfighting’s apparent rejuvenation in New York. “Gamecock-fighting is becoming more prevalent in the city,” reported the *Times*, in a piece about the rise in arrests. “A spokesman for the American Society for the Prevention of Cruelty to Animals attributed the rise to the influx of persons from Puerto Rico, where the sport is legal. He pointed out that in Puerto Rico it was as popular as baseball or football in this country.”<sup>123</sup>

Puerto Rican, Latino, and Caribbean Americans were not the only people fighting cocks under the American flag at this time, and they were also not the only people for whom cockfighting was

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<sup>119</sup> See for example Laura Briggs, *Reproducing Empire*, Chapter 6, “I like to be in America,” on postwar Puerto Rican immigration, the Moynihan Report, and Puerto Ricans supposed “culture of poverty.”

<sup>120</sup> “L.I. Police Seize 52 at Game Cock Fight,” *New York Times*, January 10, 1955.

<sup>121</sup> “Late Sleeper Rings Bell on Cock Fight,” *New York Times*, March 31, 1959.

<sup>122</sup> “Seize 21 in Raid on Cockfight,” *Chicago Tribune*, March 28, 1966.

<sup>123</sup> “Gamecock Fights Reported on Rise,” *New York Times*, April 15, 1962.

becoming culture. In 1963, while American travelers were taking airplanes and cruise ships to see cockfights in San Juan, and while the NYPD was raiding cockfights in Harlem basements, several men in rural Oklahoma were facing animal cruelty charges for fighting cocks: Richard Allen Lock, Elden Mavine Seaman, Dennis Threadgil, Jimmy Williams, Don Pyle, and Bobby Lee Ray. The anti-cruelty statute used to charge the cockfighters had been adopted by the Oklahoma Territory in 1890, and expressly prohibited animal fighting. The cockfighters challenged the criminal charges, though, arguing that the language of the statute was unclear, that it did not state with certainty that gamecocks were included under the definition of “animal”, and that it did not expressly prohibit the pitting of two gamecocks. The court agreed. It ruled that the statute was invalid and that the legislature could criminalize cockfighting if it saw fit. In its decision, the court noted (without providing a citation) that the sport had been “dignified by such participants as George Washington, Andrew Jackson, Henry Clay, and Benjamin Franklin, all of whom were purported to relish cock fighting.” The court added that it had been “reported that Abraham Lincoln said to a group of citizens, who wished to wipe out gamecock fighting by Federal Law: ‘As long as the Almighty permitted intelligent men, created in his image and likeness, to fight in public and kill each other while the world looks on approvingly, it’s not for me to deprive the chickens of the same privilege.’” On March 13, 1963, the sport of Washington, Jackson, Clay, Franklin, and Lincoln became legal in Oklahoma for the first time in nearly seventy-five years.<sup>124</sup>

The *Lock* case marked the emergence of the cockfighter mythology as a cultural defense against the criminalization of cockfighting in modern America. In the years and decades that followed, the cockfighter mythology and its attendant language of history, tradition, and heritage would suffuse discourses surrounding the legal status of cockfighting in the United States. In the few remaining states where cockfighting was legal, animal advocates and their allies continued to argue

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<sup>124</sup> *Lock v. Falkenstine*, 380 P.2d 278 (1963).

that the sport was cruel, uncivilized, barbaric, and anti-modern—the same argument they had been making for a century, but this time deployed by an animal protective movement with more money, more political influence, and more access to media than it had in the nineteenth-century.

Cockfighters and their sympathizers, meanwhile, deflected those attacks with the armor of American heritage. As the legal status of cockfighting became more and more precarious, claims about its importance to American cultural heritage trickled from pit-side to the floors of governance, to the benches of the judiciary, and to the pages of newspapers that had, a century earlier, faithfully reported the results of cockfighting mains across the country.

The cockfighter mythology would figure prominently in legal and political discourse as pressure on judges, prosecutors, and legislators mounted, and as cockfighters pushed back. In the 1970s, five court challenges to cockfighting bans took place, and the mythology appeared in the opinions for two of them: in Kansas in 1973 and in Georgia in 1977.<sup>125</sup> And in 1975, a member of the Oklahoma legislature tried and failed to undo the work of *Lock* by amending the state’s anti-cruelty statute to define roosters as “animals.” While he spoke from the floor of the state legislature, many of his colleagues heckled him with chants of “cock-a-doodle-do” and cheered loudly when another legislator, John Monks of Muskogee, took to floor to defend what he called the “great sport of all free countries—cockfighting.” He recounted for his colleagues the stories of George Washington and Abraham Lincoln, and framed cockfighter history as one of tradition and heritage, one so American in its roots that Communism, the great enemy of American democracy and capitalism, saw in cockfighting an ideological threat. “It’s an American tradition,” he said. “In every country the Communists have taken over, the first thing they do is outlaw cockfighting.” (He did

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<sup>125</sup> *State ex rel. Miller v. Claiborne*, 211 Kan. 264, 505 P.2d 732 (1973) and *Brackett v. State*, 142 Ga. App. 601, 236 S.E.2d 689, 690 (1977). The other cases were: *Hawaii v. Kaneakua*, 597 P.2d 590 (Hawaii, 1979); *Peck v. Dunn*, 574 P.2d 367 (Utah, 1978); *Oregon Game Fowl Breeders Association v. Smith*, 516 P.2d 499 (Oregon, 1973)

not comment on U.S. cockfighting bans in Cuba, Puerto Rico, and the Philippines.)<sup>126</sup> Cockfighting would remain legal in Oklahoma for nearly three decades more.

Over a thousand miles away a similar story was unfolding in the Maryland General Assembly, where legislators were considering, and ultimately passed, a bill that would ban the sport that one of the bill's sponsors had publicly called "barbaric." The *Washington Post* reported that when it came to the cockfighting debate, "mainly the talk is of history and the illustrious figures of the past." As one cockfighter said to the *Post*, "history is totally on our side." Cockfighters in Maryland organized a trade organization, the Northeastern Game Fowl Breeders, to lobby legislators and to speak out in the press about cockfighting and American tradition. Among the lobbyists was Frank Harris, a former governor's aide. "Thomas Jefferson was a cocker," Harris told the *Washington Post*. "So was George Washington. Cockfighting made America great." His repeated delivery of the cockfighter mythology to the press was no doubt the same one that he delivered to the legislators who would decide the fate of America's pastime in Maryland. The Maryland cockfighting lobby even recruited a cockfighting expert to lend the mythology authority. Clifton D. Bryant, a professor of sociology at Virginia Polytechnic Institute and State University, testified before the Maryland General Assembly about America's cockfighting heritage. While Bryant "astonished the delegates with footnotes [sic] tales of cockfighting's American past," the *Post* reported, "cockers sat back, proudly nodding their heads" to a story that they had likely heard many times at the pit, in their communities, and in the pages of *Grit and Steel* and *The Feathered Warrior*.<sup>127</sup>

Advocates of criminalization in Maryland found themselves arguing against a powerful narrative about the founding of America and about the American virtues and traditions embedded in

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<sup>126</sup> "Keeping Communism Out of Oklahoma: For Its Enthusiasts, Cockfighting is a Secret Weapon in the Cold War," *Boston Globe*, December 3, 1978.

<sup>127</sup> "Cockfighting: Cruelty or a Sport Honored Through History? The Debate Rages in Md. General Assembly," *Washington Post*, March 5, 1983.

the sport. They countered with familiar arguments about modernity and civilization, pointing to other barbarous aspects of America's past that had been swept away by the tide of moral progress and by the modernization of American culture. "The United States used to allow slavery, had no child labor laws and didn't permit women to vote," Robert Baker, an investigator for the Humane Society, pointed out. "Old does not necessarily mean good..." said Franz Dantzler, also of the Humane Society, said, "It's true George Washington, Tom Jefferson and other early presidents fought gamecocks, but these same presidents had slaves, too. I like to think the human race has escalated beyond these points. It's a brutalizing activity, a gruesome spectacle, and it is widespread."<sup>128</sup> If cockfighters and their legislative allies considered cultural heritage to be the preservation of the past, then, animal advocates and their allies countered that culture evolved progressively, leaving slavery, child labor, and voting discrimination where they belonged, in the past—along with cockfighting. This argument connected twentieth century animal advocates to a much longer history of social reform in America. They were working on a problem of cruelty that humane reformers had been working on since the middle of the nineteenth century. They were using the same arguments about civilization, progress, and modernity. And they pointed to social changes effected by the broader reform movement of which humane reform was one part.

Heritage, tradition, the past—these became the concepts used to understand cockfighting in America among both immigrant populations and rural whites. Beginning in the 1970s, these ideas began to be articulated in the specific language of "culture," in part because anthropologists and sociologists began producing new forms of knowledge about the cultural meanings of cockfighting. Foreign cockfighting and cockfighting among Puerto Rican, Latino, and Caribbean Americans were framed by new anthropological work. After the publication of Clifford Geertz's seminal essay,

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<sup>128</sup> Ibid; "Breeder of Fighting Cocks Defends Blood Sport," *Los Angeles Times*, June 11, 1982; "Maryland Senate Panel Approves Ban on Cockfighting," *Washington Post*, March 12, 1983; "Ban Wins Final Approval in Maryland General Assembly," *Associated Press*, April 6, 1983 "Cockfighting Bill Sent to Governor," *Washington Post*, April 7, 1983.

“Deep Play: Notes on a Balinese Cockfight” (1972) other anthropologists began to take interest in the cultural value of cockfighting. Geertz’s essay had broad influence in the humanities and social sciences, but, more basically, it inspired other anthropologists to treat cockfights as cultural practices. For more than two centuries, writers had been calling cockfighting the “national sport,” and tradition, custom, or pastime of the Philippines, Puerto Rico, Cuba, and many other places. When anthropologists began to study cockfighting, they confirmed with new forms of authority what had already been implied in those older discourses: that cockfighting was more than a widespread practice; it was a ritualized social practice packed with cultural meanings.<sup>129</sup>

Anthropologists provided a new vocabulary for those meanings, and, as experts on foreign “culture” and producers of knowledge, they invested those meanings with new authority. Elsewhere in the social sciences, psychiatrists and criminologists were endowing with new authority old claims about the link between animal cruelty and interpersonal violence. Anthropologists were doing something similar for old claims about the cultural meanings of cockfighting.

Meanwhile, sociologists and folklorists were doing similar work. It was no accident that cockfighter lobbyists called on a sociologist to answer these questions before the Maryland General Assembly. While anthropologists were studying cultural meanings of foreign cockfighting, sociologists were studying the cultural meanings of cockfighting in rural America, and especially in the rural South. If anthropologists were carrying on in foreign locales the cultural work of the nineteenth-century travel writers that began this essay—enshrining cockfighting as culture by virtue of its status as an object of anthropological inquiry—then American sociologists and folklorists were

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<sup>129</sup> Clifford Geertz, “Deep Play: Notes on a Balinese Cockfight,” *Daedalus*, vol. 101, no. 1 (Winter 1972): 1-37; Scott Guggenheim, “Cock or Bull: Cockfighting, Social Structure, and Political Commentary in the Philippines,” *Pilipinas: A Journal of Philippine Studies*, vol. 3, no. 1 (June 1982): 1-35; Garry Marvin, “The Cockfight in Andalusia, Spain: Images of the Truly Male,” *Anthropological Quarterly* 57 (1984): 60-70; Francis Affergan, “Zooanthropologie du combat de coqs à la Martinique,” *Cahiers internationaux de sociologie* 80 (1986): 109-126; Ondina Fachel Leal, “The Gauchos: Male Culture and Identity in the Pampas,” diss. University of California, Berkeley, 1989; H.B. Kimberly Cook, “Small Town, Big Hell: An Ethnographic Study of Aggression in a Margariteño Community,” diss. University of California, Los Angeles, 1991;



carrying on the cultural work of James Agee and his cohort of Depression-era documentarians. Like those writers, these academics were culture-seekers. They immersed themselves in the world of the predominantly white, almost exclusively rural cockpit; they attended cockfights across the American South; they interviewed cockfighters and read *Grit and Steel*, *The Feathered Warrior*, and *The Gamecock*. Their field world yielded two dozen sociological and folkloric studies of American cockfighting between the early 1970s and the early 1990s, while courts in Hawaii, Oregon, Kansas, Georgia, and Utah were considering challenges to cockfighting law, and while Maryland and Florida were passing legislative bans on the sport in 1983 and 1986, respectively.<sup>130</sup>

American cockfighters had long considered the cockpit a site of heritage, tradition, and culture, and when social scientists began treating the American cockpit as a site of ethnographic inquiry, they confirmed, by virtue of their academic interest, that heritage, tradition, and history were precisely the things at stake. Sociologists and folklorists helped introduce the language of “culture”

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<sup>130</sup> Clifton Bryant, “Feathers, Spurs, and Blood: Cockfighting as a Deviant Leisure Activity,” *Southern Sociological Society*, 1971 [paper]; William C. Capel and Bernard Caffrey, “Grit and Steel: A Study of Deviance Reflected in Attitudes of Cockfighters, Devotees of a Stigmatized Sport,” *Southern Sociological Society*, 1971 [paper]; S.L. Del Sesto, “Roles, Rules and Organization: A Descriptive Account of Cockfighting in Rural Louisiana,” *Southern Folklore Quarterly*, vol. 39, no. 1 (1975): 1-14; Charles H. McCaghty and Arthur G. Neal, “The Fraternity of Cockfighters: Ethical Embellishment of an Illegal Sport,” *Journal of Popular Culture*, 8 (1974): 557-569; J.E. Cobb, “Cockfighting in East Tennessee,” in C.H. Faulkner and C.K. Buckles, ed. *Glimpses of Southern Appalachian Folk Culture* (Tennessee Anthropological Association, 1978): 175-196; C.R. Gunter, Jr. “Cockfighting in East Tennessee and Western North Carolina,” *Tennessee Folklore Society Bulletin* 44 (1978): 160-169; H.A. Herzog, Jr. and P.B. Cheeks, “Grit and Steel: The Anatomy of Cockfighting,” *Southern Exposure*, vol. 7, no. 2 (1979): 36-40; S.L. Del Sesto, “Dancing and Cockfighting at Jay’s Lounge and Cockpit: The Preservation of Folk Practices in Cajun Louisiana,” in R.B. Browne, ed. *Rituals and Ceremonies in Popular Culture* (Bowling Green, OH: Bowling Green University Popular Press, 1980): 270-181; L.A. Wollan, Jr., “Questions from a Study of Cockfighting,” *Bulletin of the Center for the Study of Southern Culture & Religion*, vol. 4, no. 2 (1980): 26-32; Francis Frederick Hawley, “Organized Cockfighting: A Deviant Recreational Subculture,” Florida State University, Ph.D diss (1982); G.L. Parker, “An Outlet for Male Aggression: The Secret Fraternity of the Southern Cockfighter,” *Tennessee Anthropologist*, vol. 11, no. 1 (1986): 21-28; J. Harris, “The Rules of Cockfighting,” in F.E. Abernethy, ed. *Hoein’ the Short Rows* (Dallas: Southern Methodist University Press, 1987): 101-111; Frederick Hawley, “Cockfighting in the Pine Woods: Gameness in the New South,” *Sport Place*, vol. 1 no. 2 (1987): 18-26; Frederick Hawley, “Cockfight in the Cotton: A Moral Crusade in Microcosm,” *Contemporary Crises*, vol. 13, no. 2 (June 1989): 129-144; J. Donlon, “Fighting Cocks, Feathered Warriors, and Little Heroes,” *Play & Culture* 3 (1990): 273-285; J. Donlon, “Leisure Most Fowl: Cockfighting in a Cultural and Historic Milieu,” University of Illinois, Master’s thesis, 1991; Clifton Bryant, “Deviant Leisure and Clandestine Lifestyle: Cockfighting as a Socially Disvalued Sport,” *World Leisure and Recreation* 33 (1991): 17-21 G.A. Fine, “The Depths of Deep Play: The Rhetoric and Resources of Morally Controversial Leisure,” *Play & Culture* 5 (1992): 246-251; Craig J. Forsyth “A Pecking Disorder: Cockfighting in Louisiana,” *International Review of Modern Sociology*, vol. 26, no. 1 (April 1996): 15-25; Donna Darden and Steven Worden, “Marketing Deviance: The Selling of Cockfighting,” *Society & Animals*, vol. 4, no. 2 (July 1996): 211-231; Donna Darden, Steven Worden, and Lori Holyfield, “Cockfighting and Backsliding: Deviance and Postmodernism,” *Sociological Spectrum*, vol. 17, no. 3 (July 1997): 363-373.

to cockfighting in rural America. They published their accounts in journals and publications that gestured to the cultural work that was taking place in their cockpit ethnographies: *Journal of Popular Culture*, *Glimpses of Southern Appalachian Folk Culture*, *Rituals and Ceremonies in Popular Culture*, *Bulletin of the Center for the Study of Southern Culture & Religion*, *Play & Culture*. As Francis Hawley wrote in his 1982 dissertation, “Organized Cockfighting: A Deviant Recreational Subculture,” “the ideology, mythology, and practice of cockfighting serves to reinforce the disvalued cultural identity of its practitioners.”<sup>131</sup> Sociologists and folklorists pieced together the ideology, mythology, and practice of cockfighting. They sought to understand the disvalued cultural identity of white, rural American cockfighters, who, as one sociologist put it, “symbolically reaffirm, through participation, their cultural heritage.”<sup>132</sup>

The word “culture” was just a word, one that meant more or less the same thing as “heritage,” “tradition,” and “custom.” But it was a word with real meaning. In 1948, United Nation’s Universal Declaration of Human Rights guaranteed each person the “social and cultural rights indispensable for his dignity and the free development of his personality.” The framing of cockfighting as a cultural practice had more than rhetorical significance, then.<sup>133</sup> If cockfighting was a legitimate culture practice across parts of the rural South, was it right for lawmakers to criminalize it? If it was a legitimate cultural practice in Puerto Rico, Cuba, and the Philippines was it fair to arrest immigrants for bring that cultural practice to the United States? “Culture” would become the conceptual apparatus for asking and answering both those questions.

In the 1970s, the language of culture began to pervade discourse about cockfighting among Puerto Rican, Latino, and Caribbean Americans. Assemblyman Armando Montano, of the South

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<sup>131</sup> Hawley, “Organized Cockfighting,” 2.

<sup>132</sup> Del Sesto, “Dancing and Cockfighting at Lay’s Lounge and Cockpit,” 279.

<sup>133</sup> United Nations, General Assembly, *Universal Declaration of Human Rights* (Washington, DC: GPO, 1949), Article 22.

Bronx, began an annual ritual of introducing bills to legalize cockfighting in the New York State Assembly, and he became a spokesperson for the rights of Puerto Ricans to practice what was more than just a popular sport. In 1977, after his seventh failed attempt to get the legislation passed, Montano told the *Times*, “It’s a culture thing. Every Puerto Rican enjoys a cockfight.”<sup>134</sup> The cultural argument became a staple of press coverage when cockfights were raided in Latino, Caribbean, and Puerto Rican communities. In Buffalo, New York, the *Buffalo News* announced that when police “broke up a cockfight Saturday night in the rural Town of Pavilion, they broke across a cultural barrier as well.” The paper called on a professor of American studies at the University of Buffalo to explain what the headline called a “cultural barrier for Hispanic residents.” “There is a law in New York that does not allow for animal fighting,” the professor explained. “But it’s always been a part of Puerto Rican culture and other parts of Latino-Caribbean culture. I really don’t like them myself, but I understand the whole cultural part of it.”<sup>135</sup>

Criminal law scholars have termed this argument the “cultural defense,” and it drew on ideas about ethnic pluralism and multiculturalism that became increasingly prominent in post-civil rights America.<sup>136</sup> Animal advocates (who might have celebrated multiculturalism in other contexts) responded to the cultural defense of cockfighting by arguing that cultural difference did not justify cruelty to animals even if it explained it. Cruelty to animals was criminal in the United States, period. Karen Davis, president of United Poultry Concerns, argued in a letter to the *New York Times*, that it was “disgraceful to invoke ‘culture’ as an excuse for cruelty to animals” and called the cultural defense “out of touch with the modern effort to replace repetitive violence with constructive

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<sup>134</sup> “Round 7 for Cockfighting Bill,” *New York Times*, February 23, 1977.

<sup>135</sup> “Outlawed Cockfighting an Example of Cultural Barrier for Hispanic Residents,” *Buffalo News*, January 11, 1995.

<sup>136</sup> Alison Dundes Renteln, *The Cultural Defense* (New York: Oxford University Press, 2004); Matthew Frye Jacobson, *Roots Too: White Ethnic Revival in Post-Civil Rights America* (Cambridge, MA: Harvard University Press, 2006).

activities.”<sup>137</sup> Similarly, the *Buffalo News*, which had just reported on cockfighting’s “cultural barrier,” argued in an editorial: “No Cockfighting, Please; This is Cruelty, No Matter What the Culture.” “Cockfighting has been practiced in many countries,” the editorial read. “But currently it comes here mainly from Puerto Rico, as part of the Caribbean culture. But no amount of explaining how popular it is on the island makes it an acceptable sport.” The editorial also framed the issue in broader terms, as being about the cultural inheritances and influences of American immigrants over time. “This nation has been greatly enriched through the years by the culture and customs brought here by waves of immigration,” it began, perhaps softening the blow for of what followed: “But some customs are best left in the homeland. To be blunt about it, they aren’t wanted here. One is cockfighting.”<sup>138</sup>

But what if that custom wasn’t from some other homeland? While debates about cockfighting in American immigrant communities became invested with meanings about cultural difference and cultural rights, the same language infused debates over the legal status of cockfighting rural America. In this context, the cultural defense of cockfighting merged with other cultural discourses that became prominent over the same period. Multicultural discourses made the cultural defense of Puerto Rican cockfighting legible, but white Americans were also reclaiming ethnic roots in ways that would have made ideas about rural American heritage, difference, and cultural preservation make sense, even though they were not based in ethnic difference.<sup>139</sup> Another important discourse was that of the “culture wars,” which referred to conflicts in American culture with deep resonance for white, rural cockfighters: rural versus urban; traditional versus modern and progressive; liberal versus conservative; Christian versus secular; federal versus state; government

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<sup>137</sup> Karen Davis, letter to the editor, “No Excuse for Cruelty,” *New York Times*, April 8, 1995.

<sup>138</sup> “No Cockfighting, Please; This is Cruelty, No Matter What the Culture,” *Buffalo News*, January 14, 1995.

<sup>139</sup> Jacobson, *Roots Too* (2006)

versus the individual and the family. (And in the rural South, these culture wars were deeply rooted in national conflicts over slavery, secession and the Civil War, emancipation, Reconstruction, Jim Crow, *Brown v. Board of Education*, and the civil rights movement.) For some rural Americans, cockfighting took its place in the “culture wars” alongside abortion, gun rights, welfare, the separation between church and state, and civil rights issues, including equal pay for women, affirmative action, and same-sex marriage.<sup>140</sup> The cultural defense of cockfighting was a cultural defense of how these rural cockfighters imagined family, community, and nation. To say that cockfighting was a tradition was to say that it was traditional in all the loaded meanings of that word—traditional marriage, the national tradition of gun ownership, and Christian tradition. In his 1982 study of southern cockfighting, Francis Hawley wrote that the “‘problem’ of cockfighting” was “almost certainly a problem of cultural conflict”—a “battle over the nation’s cultural values.”<sup>141</sup> From 1998 until 2002, the rural cockpits of Arizona, Missouri, and Oklahoma were the battlegrounds.

In Arizona, Missouri, and Oklahoma, cockfighting became illegal through ballot initiatives. (Legislative proposals had failed time and again.) The culture defense featured prominently in each state. While Missourians were considering “Proposition A – Felony to Bait of Fight Animals,” which passed by a margin of 63% to 37%, the *Economist* noted that cockfighters in Missouri called the sport “part of a country culture.”<sup>142</sup> The same was true in Arizona, which passed Proposition 201 by 68% to 32%. Belton Hodges, an outspoken cockfighter, said of animal advocates: “They don’t

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<sup>140</sup> On the culture wars generally, see James Davison Hunter, *Culture Wars: The Struggle to Define America* (New York: Basic Books, 1991); Jacobson, *Roots Too* (2006); Daniel T. Rodgers, *Age of Fracture* (Cambridge, MA: Harvard University Press, 2011).

<sup>141</sup> Hawley, “Organized Cockfighting,” 127.

<sup>142</sup> Missouri 1998 Proposition A; percentages from Rebecca F. Wisch, “State Initiative Topic Chart,” Animal Legal and Historical Center, Michigan State University College of Law, 2009 (<http://www.animallaw.info/articles/ddusinitiativetopicchart.htm>; accessed August 23, 2012); “United States: The Last Cock-Fight,” *The Economist*, 349.8090, October 17, 1998.

understand it's part of our history here in the Southwest, part of our culture. I mean, it goes back centuries."<sup>143</sup> James H. Allen, of Mesa, wrote, "cockfighting is a part of culture that has been handed down over the centuries. It has been part of our own country's early history."<sup>144</sup> The same was also true in Oklahoma, which approved State Question 687—Initiative Petition 365 by a vote of 565,967 to 441,220 in 2002.<sup>145</sup> Walt Roberts, a former state legislator and member of the Oklahoma Gamefowl Breeders Association said, "This is one of the last threads of America's heritage and culture."<sup>146</sup> A lawyer representing cockfighters in Oklahoma told the press, "All of the sudden, their way of life, their culture, has been uprooted. Where do they go?"

The conflict between rural tradition and urban sensibilities was especially marked. It was a conflict that dated to the birth of animal advocacy in the United States, when middle-class reformers in American cities sought to modernize the rest of the nation in line with their own ethics of progress and civilization. Rural legislators in Missouri defended the practice as "part of a country culture that city folks will never understand."<sup>147</sup> In Arizona, Belton Hodges said, "Our whole lifestyle has changed, from a rural lifestyle to an urban lifestyle."<sup>148</sup> A letter writer to the *Economist* from Stillwater, Oklahoma, argued that cockfighting bans were attempts to "legislate away a rare folk tradition," and noted that bans would no doubt "make suburbanites feel good."<sup>149</sup> Also in

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<sup>143</sup> "Is Game of Fowl More Foul Than Play?; Arizona Vote Pits Cockfighting Tradition Against Animal-Rights Advocates," *Washington Post*, November 1, 1998.

<sup>144</sup> Arizona Proposition 201 (1998) – An Initiative Measure Proposing an Amendment to Title 13, Chapter 20 of the Arizona Revised Statutes Relating to Cockfighting. The Animal Legal and Historical Center at Michigan State University College of Law collected statements for and against the proposal. They are available at <http://www.animallaw.info/statutes/stusaz1998proposition201cock.htm> (accessed August 23, 2012).

<sup>145</sup> Oklahoma State Question 687—Initiative Petition 365.

<sup>146</sup> "Cockfights Hatch Fray: Birds' Owners Defend Heritage," *Daily Oklahoman*, March 28, 1999.

<sup>147</sup> "United States: The Last Cock-fight," *The Economist*, 349.8090, October 17, 1998.

<sup>148</sup> "Is Game of Fowl More Foul than Play?" *Washington Post*, November 1, 1998.

<sup>149</sup> Letter to the Editor, "Bird-Watching," *The Economist*, 349, 8092, October 31, 1998.

Oklahoma, George Day, a member of the Oklahoma Gamefowl Breeders Association, told the *Daily Oklahoman* that the “proper name for the Oklahoma Coalition Against Cockfighting should be the New York Coalition Against Cockfighting.”<sup>150</sup> When Day renamed the *Oklahoma* Coalition Against Cockfighting the *New York* Coalition Against Cockfighting, he was signaling a much broader conflict over the cultural contours of modern America.

By laying claim to American heritage, tradition, and history, cockfighters invoked the freedoms and rights that America’s founders valued and protected—freedoms and rights that were uniquely American; freedoms and rights that were under attack by parties who valued government control over individual liberties; freedoms and rights that included cockfighting. “The greatest leaders our country ever had were cockfighters,” said David Harris, of Phoenix. “These were the men who wrote the Bill of Rights, the Declaration of Independence and Abraham Lincoln wrote the Emancipation Proclamation.”<sup>151</sup> In Oklahoma, State Senator Frank Shurden used similar language and logic when speaking out against his state’s proposed ban. “Really, what I’m pro on is out individual freedoms our forefathers enjoyed such as Thomas Jefferson, Abraham Lincoln and all other great Americans that enjoyed the sport of cockfighting,” he said. “It’s an historical deal among our forefathers. That’s really what I’m pro – pro-freedom and not to be infringed on by animal rights groups.”<sup>152</sup> Devon Smith, a spokesperson for the intentionally named Oklahomans for Freedom of Choice, echoed Shurden. “It’s a shame that they’ve taken away those rights when the very founding fathers of this country were game fowl enthusiasts themselves,” he said. “This country was founded on freedom and they’re literally chipping away one right at a time[.]”<sup>153</sup>

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<sup>150</sup> “Cockfighting Issue Spurs Debate,” *Daily Oklahoman*, November 28, 1999.

<sup>151</sup> Arizona Proposition 201 (1998).

<sup>152</sup> “Senator Makes Flap with Cockfight Bill,” *Daily Oklahoman*, March 19, 2001.

<sup>153</sup> “Cockfighting Opponents Push Signature Proposal,” *Journal Record* (Oklahoma City), October 24, 2002.

For some Puerto Rican, Latino, and Caribbean Americans living in cities, cockfighting had become culture. It had also become culture for some whites in rural America. These Americans, separated by physical space, ethnic heritage, and often language, were united in their claims that cockfighting was a cultural practice rooted in tradition and in the past; that it was a feature of their communities' cultural difference; and that they had a cultural right to preserve it.

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The year 2007 was the year of the pig, according to the Chinese zodiac, but in American law and culture it was definitely the year of the rooster. By 2002, the only American states that allowed cockfighting were Louisiana and New Mexico, which stood with Puerto Rico as major destinations for men and women wanting to fight cocks legally under the American flag. In Louisiana and New Mexico, some cockfighters still claimed American heritage and continued to wage the culture wars. Visitors to cockpits in Louisiana could purchase t-shirts that depicted a cockfight taking place beneath the watchful eyes of George Washington, Thomas Jefferson, and Abraham Lincoln. And many people, such as Woolly Bunch, whose rendition of the cockfighting mythology began this chapter, continued to defend cockfighting in New Mexico and Louisiana by making claims about American heritage, tradition, and culture.<sup>154</sup> But cockfighters in Louisiana, New Mexico, and Puerto Rico, the last major outposts of cockfighting under the American flag, were prepared to offer their own versions of the cultural defense.

Stateside, the cultural defenses in Louisiana and especially in New Mexico were far more syncretic than in Missouri, Arizona, and Oklahoma. When cockfighters and their allies in Louisiana and New Mexico spoke of culture, they sometimes meant founding fathers, rural America, and traditional heritage, but they just as often meant a culture rooted in different ethnic, racial, and

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<sup>154</sup> "In Cajun Country, A Fight to the Finish," *New York Times*, June 1, 2007.



national pasts. For many Louisianans and New Mexicans—Cajuns and Mexican Americans—cockfighting was simultaneously an American and a non-American cultural practice. Or perhaps, by 2007, the history of cockfighting in America had, with its multicultural origins, migrations, exchanges, and preservations, collapsed those distinctions.

In New Mexico, cockfighters drew on the history of the American Southwest in claiming a cultural heritage dating to the beginning of Spanish colonization. As the *New York Times* reported, “Many of the estimated 10,000 New Mexicans who breed gamecocks described cockfighting as part of the state’s culture, dating from Spain’s colonization of this part of the Southwest four centuries ago.” Ronald Barron, the president of the New Mexico Game Birds Association and a main spokesperson for cockfighters and gamecock breeders across the state, emphasized those roots at every turn, noting, according to the same *Times* piece, that cockfighting was “a practice shared with other former Spanish possessions where it remains common, like Puerto Rico, Guam, Mexico, and the Philippines.”<sup>155</sup> When the bill seemed close to passing, Barron alleged nothing short of cultural and perhaps racial prejudice. “I would like to let all the legislators know that without a doubt, 95% of the game fowl people in this state are Hispanic,” he said, “and I can prove it by our membership. This is discrimination against a culture and a person’s livelihood.”<sup>156</sup> Barron’s cultural claims were less about George Washington, rural life, and Americanness than they were about an entirely different *American* history—one four centuries old and one rooted in Mexican and Spanish heritage. Puerto Rican, Latino, and Caribbean immigrants had brought this heritage with them to the states, and the conditions of those migrations had been produced in part by U.S. military and economic imperatives. Ever since the middle of the nineteenth century, men and women living in modern day New Mexico didn’t need to move anywhere to find themselves preserving their culture in a foreign

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<sup>155</sup> “Bastion of Cockfighting is Under Pressure to Ban It,” *New York Times*, December 9, 2004.

<sup>156</sup> “Legislators Must Decide if Cockfighting is Cultural or Cruel,” *McClatchy-Tribune Business News*, January 8, 2007.

land that had incorporated them as part of those same imperatives. Plymouth rock, to paraphrase Malcolm X, had landed on them.

In Louisiana, too, cockfighters and their allies employed a cultural defense based on ethnic and cultural difference.<sup>157</sup> While New Mexican cockfighters and gamecock breeders made claims about a cultural heritage that dated to Spanish colonization, Cajun cockfighters in Louisiana emphasized their own federally recognized ethnic status as descendants of the French-speaking Acadians, who were exiled from Maritime Canada after the French and Indian War. In 2003, after the Oklahoma referendum banned cockfighting in that state, Cajun cockfighters filed a lawsuit alleging discriminatory effect of an amendment to the Animal Welfare Act that would ban interstate transport of fighting cocks. The United Gamefowl Breeders Association argued that cockfighting was “integral to their culture,” the *Tulsa World* reported. A Tulane law professor representing the association claimed that the law, which he described as “moral imperialism,” denied “equal protection to Cajuns and Hispanics in Louisiana.”<sup>158</sup> Cockfighters and their allies maintained that position as animal advocates continued to press for criminalization. Troy Herbert, a state representative from Jeanerette, called the proposed ban “a definite assault on our culture.”<sup>159</sup> Cockfighters echoed those words. After the ban passed the Louisiana legislature and shortly before it took effect, Chris Daughdrill, a gamecock breeder in Loranger, Louisiana, merged the multicultural defense with the language of the culture wars, saying, “The culture, the custom of the Cajun people, it’s gone. It’s another one of the rights that big government has taken away from the people.” Bill Duplechein, a Cajun cockfighter from St. Martinville, also mourned the loss of a Cajun cultural practice. “It’s a big loss for us,” he said. “We’re losing out an opportunity to keep our heritage and

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<sup>157</sup> “In Cajun Country, A Fight to the Finish,” *New York Times*, June 1, 2007.

<sup>158</sup> “Bird Ban Quashes Cajun Culture,” *Tulsa World*, May 31, 2003.

<sup>159</sup> “Humane Society Launches Louisiana Anti-Cockfighting Campaign,” *Associated Press*, April 7, 2004.

our culture.”<sup>160</sup>

Cultural claims required cultural denials in New Mexico, just as they had in Arizona, Missouri, and Oklahoma, and when it came to Puerto Rican, Latino, and Caribbean cockfighting in New York City and elsewhere. In Louisiana in 2004, state representative Karen Carter held a conference on the Capitol steps with Wayne Pacelle, Vice President of the Humane Society, where, according to the *Associated Press*, they “rejected arguments that [cockfighting] is an aspect of state culture as positive as Creole or Cajun cuisine.”<sup>161</sup> The New Orleans *Gambit*, in an editorial supporting the ban, argued that cockfighting was “hardly the ‘family’ or ‘cultural’ attraction its apologists and promoters profess it to be.”<sup>162</sup> And a member of the Louisiana state police, Lt. Rhett Trahan, told the *New York Times*, “I’m just as Cajun as the rest of them, and it’s sure not a part of my culture.”<sup>163</sup> Banning cockfighting in Louisiana meant denying that it was a legitimate cultural practice for Cajuns.

In New Mexico, cultural denial was an especially salient feature of the cockfighting debate, perhaps because the ethno-racial aspect of the “cultural conflict” was more obvious than in the case of Louisiana Cajuns. Much of the denial necessarily came from people who claimed the same heritage that cockfighters and gamecock breeders were claiming. State Senator Mary Jane Garcia, a sponsor of several anti-cockfighting bills and the main spokesperson for prohibition, argued forcefully against the cultural defense and offered a competing vision of her cultural heritage. In 2005, after one of her anti-cockfighting bills had failed to pass, she told reporters that she was “offended” by claims that cockfighting was part of “Hispanic heritage.” “I’m an Hispanic born in a

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<sup>160</sup> “Blood Sport Enters Final Week in La. Communities,” *Richmond Times Dispatch*, August 11, 2008.

<sup>161</sup> “Humane Society Launches...”

<sup>162</sup> “Ban Cock-fighting Now,” *The Gambit* (New Orleans), April 17, 2007.

<sup>163</sup> “In Cajun Country, a Fight to the Finish”...

rural community... and I've never seen a cockfight in my life in my home community," she said. "I've never perceived cockfighting to be cultural. I mean, if it's cultural, how come it's not on our tourism pamphlet promoting it to tourists as a cultural activity."<sup>164</sup> As the New Mexican legislature considered the bill that would finally ban the practice, she continued to offer a competing set of cultural claims. "When you think of New Mexican culture, what leaps to mind?" she asked readers of *Las Cruces Sun-News* in an op-ed entitled, "Culture of Cockfighting is Culture of Violence":

The ancient pueblos? The world-famous Balloon Fiesta? The diverse languages and religions? Or are our most vivid cultural images those of illegal gambling and an act of two animals mutilating each other to death? The cockfighting lobby would have us believe that the act of cockfighting is a treasured part of Hispanic culture. I am offended by this argument, which characterizes my culture as barbaric. I am a rural Hispanic and an anthropologist, and this is not my people's culture.<sup>165</sup>

Other proponents of the anti-cockfighting bill made similar cultural claims. Estevan Arellano, a New Mexican poet and writer, published an article in 2007 called "Otra Voces: Cockfighting Not Part of Hispano Tradition," in which he joined Garcia in denying the importance of cockfighting to "Hispanic" culture. "I don't buy the idea either that it's a cultural tradition of the so called 'Hispano' culture, without defining the word 'Hispano,'" he wrote, "since most of the people I see in the paper supporting cockfighting appear to be Anglo cowboys."<sup>166</sup> The cultural rejections offered by Garcia, Arellano, and others even became the position of Governor Bill Richardson, who, after several years of mounting pressure from anti-cockfighting advocates, announced his support for the 2007 legislative ban. "We do not think cockfighting is a 'cultural' event," he said. "It is a cruel, totally unnecessary abuse of chickens trained to kill while the spectators gamble and drink."<sup>167</sup>

Cultural rejections in Cajun country and in New Mexico shared discursive space with

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<sup>164</sup> "Latest Fight Over Cockfighting Ends the Same," *Las Cruces Sun-News*, February 23, 2005.

<sup>165</sup> Mary Jane Garcia, "Culture of Cockfighting is Culture of Violence," *Las Cruces Sun-News*, January 26, 2007.

<sup>166</sup> Estevan Arellano, "Otra Voces: Cockfighting Not Part of the Hispano Tradition," *Taos News*, January 25, 2007.

<sup>167</sup> "About Time to Halt Cockfights," *Las Cruces Sun-News*, December 28 2006.

powerful and oft-repeated claims about barbarism, civilization, progress, and modernity—claims that humane reformers had used against American cockfighters since the mid-nineteenth century and that government officials, reformers, and educators had used against the Filipinos, Cubans, and Puerto Ricans under American occupation. One state senator in Louisiana called cockfighting a “barbaric embarrassment to Louisiana” and another urged, “It seems to me it’s time to close this chapter of our history and move on to better things.”<sup>168</sup> Mike Strain, a state representative from Covington, lamented that Louisiana was “the only state that allowed this barbarous act to continue.” “I am determined to see that cockfighting ends so we can remove this black eye,” he said, “It is time to move the state forward.”<sup>169</sup> There was similar talk in New Mexico. Diane Hamilton, a state representative from Silver City, said of the proposed ban, “I think we’re in the 21<sup>st</sup> century. We ought to act like it.”<sup>170</sup> A writer to the *Wall Street Journal* weighed in from Oakland, California to applaud Bill Richardson’s announced support. “Some human activities are simply too barbaric and cruel to be protected under the guise of tradition or culture,” she wrote. “If we are the civilized species we say we are, then we will embrace the abolition of such blood sports.”<sup>171</sup> No one conveyed these ideas more succinctly, perhaps, than Heather Ferguson, the legislative director for Animal Protection of New Mexico. After the cockfighting ban went into effect, she announced, “New Mexico is on the verge of having a modern culture.”<sup>172</sup> In 2007, cockfighting became, at long last, illegal in all fifty states. Animal advocates finally achieved, in law if not in culture, the national transformation they had been seeking since 1866.

Having won stateside, animal advocates turned their sights to Puerto Rico. They scored a

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<sup>168</sup> “Proposed Cockfighting Ban Fails in La. House Committee,” *Associated Press*, June 1, 2006.

<sup>169</sup> “Strain Determined to End Cockfighting in La.” *New Orleans CityBusiness*, June 7, 2007.

<sup>170</sup> “House Approves Cockfighting Ban,” *Associated Press*, March 1, 2005.

<sup>171</sup> “Letter to the Editor, “Cruel Tradition Ends,” *Wall Street Journal*, February 20, 2007.

<sup>172</sup> “A Ban on Cockfighting, But Tradition Lives On,” *New York Times*, July 6, 2008.

major victory in that campaign in 2007 when President George W. Bush signed into law the Animal Fighting Prohibition Enforcement Act, which made it a federal crime to transport gamecocks across state or national borders. Stateside gamecock breeders were still considered the best in the world, and they could no longer be imported to fuel Puerto Rico's estimated \$800 million-a-year cockfighting industry. An official with Puerto Rico's Department of Recreation and Sports, which oversaw cockfighting on the island, used the language of culture in response to the Act. "History has demonstrated that prohibitions that trample cultural traditions do not work," he said to the *Orlando Sentinel*. The paper responded two days later with cultural denials similar to ones made in New Mexico and Louisiana: "There are those who argue that cockfighting is part of Puerto Rico's rich culture, as appealing as empanadillas, tropical beaches and dominoes," the *Sentinel* noted. "But it's also a barbaric 'sport' that serves no purpose other than entertainment value for those who revel in mayhem."<sup>173</sup>

Puerto Rico responded to the campaign a few months later by passing the Puerto Rico Gamecocks of the New Millennium Act—a piece of legislation that declared cockfighting not only legal, but the "cultural right" of Puerto Rico, protected by international law.<sup>174</sup> "Cockfighting is hereby authorized in Puerto Rico as a legal sport," the Act read. "The holding of cockfights in Puerto Rico is hereby established as a cultural right of all Puerto Ricans, pursuant to Section 22 of the Universal Declaration of Humane Rights of the United Nations, adopted by the General Assembly Resolution 217 (iii) December 10, 1948." Rooting the practice firmly as a cultural tradition, it referred back to its legalization in 1933, when, according to the Act at least, it became an "Official Sport in Puerto Rico." It went on to present the cultural defense in as many ways as one

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<sup>173</sup> "New Law Tears at Island's Culture of Cockfighting," *Orlando Sentinel*, May 29, 2007; "No Defense for Cockfights," *Orlando Sentinel*, May 31, 2007.

<sup>174</sup> *Puerto Rico Gamecocks of the New Millennium Act*. H.B. 1369, Act No. 98 of 15<sup>th</sup> Puerto Rican Legislature, 5<sup>th</sup> session (official translation retrieved from <http://www.oslpr.org/download/en/2007/A-0098-2007.pdf>)

could imagine it being presented. “Cockfighting is part of the Puerto Rican patrimony and folklore,” it read, describing the sport’s “recreational, cultural and economic importance” and ability to foster “social, cultural and human relations.” It also “spreads cultural traditions.” “As are the flag and the *coqui* frog, the gamecock is a symbol of our culture.” In conclusion, the Act stated, “the beak and spurs activity enhances our culture, since cockfighting, more than mere show, is a rich source of natural and cultural knowledge, in which cockers learn from gamecocks the fighting spirit and unwavering betterment that contenders display in pursuing excellence.” And that has been, as of this writing, the last word on cockfighting in the island. Time will tell whether the campaign by animal advocates will bear the fruit of prohibition once again. But for now, cockfighting remains a legal practice and cultural right throughout Puerto Rico.

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The history of cockfighting is ongoing. Around the globe, men and women are fighting cocks in places that I have not even mentioned. In fact, it would be much quicker to compile a list of places where people don’t fight cocks than where they do. In the United States, cockfighting remains universally banned and yet popular in many of the same pockets of resistance that so vigorously defended it in the years leading up to the year 2007. In many states, fighting cocks is a misdemeanor and, in some, attending a cockfight is legal. Efforts to strengthen these laws have elicited many of the same claims about culture and tradition that surrounded other anti-cockfighting campaigns. In Virginia, for example, a 2008 campaign to raise cockfighting to a felony brought the cockfighter mythology back into public discourse. A lobbyist for the Virginia Gamefowl Breeders Association testified before a Virginia legislative committee and made the following appeal, reminiscent of ones made on the floors of legislatures in Missouri and Oklahoma. “Their sport’s been here since Colonial times,” he said. “When was the last time you, as a committee member, have been asked to

do away with something that's been here since colonial times?"<sup>175</sup> Legislative efforts are few and far between, but cockfights are everywhere in pits from rural Oklahoma, to Flushing, Queens, to Southern California, to Miami. The real history of cockfighting in America lives on in those pits, where Americans of many heritages, cultures, languages, and histories continue to enjoy the oldest sport in human history, quietly for the most part. Cockfighting emerges from the shadows of those pits only when police manage successful raids and when media report the arrests. Over just a few months in the spring and summer of 2012, the *Associated Press* reported the following: three men were shot and killed at a cockfight in Texas where police estimated attendance at 150 to 200 people; thirty people were discovered fighting cocks at an egg distribution center in Southern Oregon; thirty-two people were arrested as part of a "cockfighting ring" in southern Georgia; and ninety-two gamecocks were seized from a breeder in Pennsylvania town twenty miles south of Pittsburgh.<sup>176</sup> Most people don't notice, but the United States is still a cockfighter nation.

The United States is also a cockfighter nation composed of many cockfighting nations. Issues of immigration, race and ethnicity, and multicultural conflict remain central to cockfighting among Americans of Mexican, Latino, Caribbean, and Southeast Asian descent. In September 2010, law enforcement and officers from the Pennsylvania Society for the Prevention of Cruelty to Animals raided a home in Philadelphia where cockfights were reportedly held once a week. According to the *Philadelphia Daily News*, cockfighting was "dubbed by some Puerto Rican neighbors as part of their culture." The paper described how "Spanish music blared from speakers of a home across the street from where the cockfights were held, and a Puerto Rican flag was perched atop a stop sign." A neighbor told a reporter, "It's part of our heritage. It's hard to break those customs

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<sup>175</sup> "Group Defends Cockfighting Before Legislative Committee," *Free Lance-Star* (Fredericksburg, Virginia), February 26, 2008.

<sup>176</sup> "Fourth Arrested After Texas Cockfight Shooting," *Associated Press*, April 26, 2012; "Egg Company Aghast at Cockfighting on the Grounds," *Associated Press*, June 27, 2012; "More Than 30 People Arrested in Cockfighting Probe," *Associated Press*, July 10, 2012; "Humane Society Raids Suspected Pa. Cockfight Farm," *Associated Press*, August 9, 2012.



despite the law here.”<sup>177</sup> The next year, when five men were arrested at a backyard cockfight in West Palm Beach, the *South Florida Sun-Sentinel* noted, “Many of those arrested in Florida are from Cuba and Puerto Rico, and often claim the sport is part of their cultural heritage.”<sup>178</sup>

It has been more than a century since the *New York Times* consistently reported results from the cocking mains that pitted Troy against Trenton and Jersey City against Brooklyn; since visitors to the island nations of Puerto Rico, Cuba, and the Philippines first encountered the foreign cockpits that seemed to offer so much meaning about barbarism and civilization; and since Henry Bergh and the Society for the Prevention of Cruelty to Animals sought to change the animal ethics of American culture by making cockfighting, and many other forms of animal cruelty, illegal.

Over that time, in the United States, cockfighting became cruel and it became culture. It became cruel because animal advocates convinced growing numbers of the American public that cockfighting was barbaric, uncivilized, and socially dangerous. Men and women who were convinced that cockfighting was cruel worked over this period to ban it wherever the American flag flew: from the United States to the occupied islands of the Philippines, Cuba, and Puerto Rico. Their success, in the fifty United States, is self-evident. Cockfighting became culture because these ideas about human cruelty, barbarism, and civilization produced social and cultural meanings around cockfighters and their communities. Communities where cockfighting remained popular despite the slow march of legal prohibition—whether the people of the Philippines and Puerto Rico, the Cajuns of Louisiana, the Mexican Americans of New Mexico, or the rural whites of Oklahoma—seemed mired in culturally backwardness.

Accusations of cruelty and barbarism prompted many of these communities to make cultural

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<sup>177</sup> “Raid Shuts Philadelphia Cockfight Ring,” *Philadelphia Daily News*, September 9, 2010.

<sup>178</sup> “Five People Arrested at Cockfight Near West Palm Beach, Says PBSO,” *South Florida Sun-Sentinel* (Fort Lauderdale, FL), December 28, 2010.

claims on their own behalves. For cockfighters and their allies, it was the label of cruelty and the threat of criminalization that, over more than a century, transformed cockfighting from sport and pastime into culture, heritage, tradition, and history. The precise nature of that culture, heritage, tradition, and history varied in place and in time. Under U.S. occupation, Puerto Ricans, Filipinos, and Cubans claimed a cultural heritage that predated the imperial transfer of power in 1898. Rural (predominantly white) Americans claimed a traditional American heritage that had been stripped away by forces of modernization, liberalism, secularism, and government interference. And Americans of diverse ethnic and racial roots made more complicated claims about cultural heritage, cockfighting, and the law: from Puerto Ricans and Caribbean immigrants, who insisted that cultural practices from home should not be criminalized in Harlem, Philadelphia, or West Palm Beach; to Mexican Americans and Cajuns, whose cultural defenses drew on histories both American and non-American, and that were, therefore, typically American in their multicultural construction.

A cultural history of cockfighting in America is a cultural history of America. Thinking about cockfighting in America means thinking about the long history of global exchanges and networks of people, culture, violence, capital, resources, ideas, and social practices that created America. Thinking about cockfighting in Oklahoma, Missouri, New York, New Mexico, Louisiana, or Puerto Rico means thinking about cockfighting in the ancient world, from Greece to Rome to the Indus Valley; in medieval Britain, Spain, and France, and in the empires they would later build; in colonial and early America and in the rural enclaves that still claim its heritage; in Puerto Rico, Cuba, Haiti, the Dominican Republic; in the Philippines and Southeast Asia; in the borderlands of the Southwest and California; in nineteenth-century immigrant neighborhoods on the Lower East Side of Manhattan; and in twentieth-century immigrant neighborhoods in Harlem, Queens, Miami and elsewhere in and on the edges of American cities. The history of cockfighting in America is part of a global history of emigration, expansion, conquest, and occupation in which people of many different

histories, languages, religions, and cultures have enjoyed fighting cocks. It is a global history of cultural exchange, transformation, migration, preservation, and erasure, and a part of that history has featured people born in America, people who became Americans, and people whose lives have been shaped by America's military and economic ambitions. Contests over cockfighting in modern America have therefore been contests over the world, the nation, and the cultures wrought by this global history.

## CHAPTER THREE

### HAPPY COWS AND STRESSED PIGS:

#### INTENSIVE FARMING AND THE SCIENCE OF ANIMAL SUFFERING

*“Animals are happy so long as they have health and enough to eat.”<sup>1</sup>*  
... Bertrand Russell, 1930

Can an intensively farmed animal be happy? This chapter considers that question—one with long historical roots—and the answers to it that have been proposed over the twentieth century. But let’s start with just one very recent answer provided by the California Milk Advisory Board (CMAB). Sure, cows can be happy. Happy cows live in California.

The CMAB describes itself as an “instrumentality” of the Department of Food and Agriculture in the State of California. The board consists of twenty-four dairy farmers, nominated by their communities and confirmed by the State Secretary of Food and Agriculture. The CMAB focuses on promotion, education, and research. As far as promotion, according to their website, “The CMAB vigorously promotes California dairy products using an integrated mix of media that includes print, radio, television, outdoor, in-store promotions and publicity.”<sup>2</sup> In an age when many manufacturers of animal products make claims about the humane existences of the animals that become their products, the CMAB, and by association the State of California, have taken those appeals one step further, by claiming that dairy cows in California are actually “happy.”

CMAB began the “Happy Cows” advertising campaign in 2000 at a cost of \$17 million. The first ad introduced the campaign tagline: “Great Cheese Comes from Happy Cows. Happy Cows Come from California.” It featured several dairy cows grazing in a field and merrily singing a song. When the farmer’s wife appeared on the porch of the farmhouse, they stopped singing. When she

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<sup>1</sup> Bertrand Russell, *The Conquest of Happiness* (1930; New York: Norton, 1996), 15.

<sup>2</sup> California Milk Advisory Board, “Happy Cows” (2000); available at <http://www.realcaliforniamilk.com/content/about-california-milk-advisory-board> (accessed January 5, 2010).

went inside, they started up again. Another TV spot featured a newly transplanted California cow remembering without fondness the cold of the Midwest. In another, California bulls talked about how much better looking California “babes” were. In this advertising campaign, cows could speak, think, and have feelings. In California, they were happy. According to the CEO of CMAB, Adri Boudewyn, the new campaign was a way of “telling consumers why California cheese is so good... These happy cows allow us to emphasize the quality of the milk in a memorable and humorous way.” CMAB’s advertising director, Michael Freeman, explained why “Happy Cows” could achieve that effect. “You have your babies and your puppies, and it seems cows get (a similar) emotional response,” Freeman said in October 2000. “[They] create affection for California cheeses in a big way.”<sup>3</sup>

The ad campaign ran for eighteen months until late April 2002, when People for the Ethical Treatment of Animals filed a complaint with the Federal Trade Commission, claiming that the advertisements misled consumers about the emotional and material conditions of farmed animals. At a press conference, PETA spokesperson Bruce Friedrich showed video footage of dairy cows being milked. According to the *San Francisco Chronicle*, the cows looked “decidedly less happy than those in the commercials.” Friedrich commented: “We cannot deny, as convenient as it may be to do so, that they are individuals with needs, desires, and the capacity for pain and suffering.”<sup>4</sup> Nancy Fletcher, a spokesperson for CMAB and a third-generation dairy farmer, defended the premise of the advertisements. California cows, she claimed, lived in comfortable surroundings and ate a quality diet. Farmers also had an interest in treating cows well. “If dairy farmers were mistreating the cows,” she said, “they would not be producing a lot of milk.” Fletcher admitted that the Central Valley, the

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<sup>3</sup> “Happy California Cows Star in New ‘It’s the Cheese’ Advertising Campaign,” *Business Wire*, October 16, 2000; “Bovines to Create a Moood for Cheese; New Ad Focus on California’s Contented Cows,” *San Francisco Chronicle*, October 16, 2000.

<sup>4</sup> “California Cheese Ads Called Deceptive,” *San Francisco Chronicle*, April 30, 2002.

arid region where most California dairy farms operate, had little resemblance to places like Sonoma County, but that “their needs are being met and they’re producing a lot of milk.” These cows were happy because they were healthy and well fed. Besides, Fletcher added, “it’s a humorous approach. Have you ever heard cows talk?”<sup>5</sup>

In October, the FTC informed PETA that it would not be taking action on the complaint against CMAB.<sup>6</sup> After the FTC rejected the complaint, PETA took CMAB to court, seeking a permanent injunction to end the “Happy Cows” campaign, alleging that the campaign was “explicitly and implicitly untrue, deceptive, and misleading.” One of the named plaintiffs in the suit was John Robbins, a vegetarian activist and writer whose father, Irv Robbins, co-founded Baskin-Robbins ice cream. Against CMAB’s claims that the ads were not to be taken literally, and that dairy cow welfare was best measured by their high levels of productivity, Robbins argued, “Increasing numbers of the public do want to know how the food they eat is produced.” To that end, he believed, “this ad campaign is such an affront to people who want to make an informed choice.”<sup>7</sup> The material conditions suggested by the advertisement and its claims about animal happiness, therefore, misled consumers who wanted to make informed choices about animal products based on the material conditions of production—conditions that included the emotional lives of animals. In its complaint, PETA described “false representations of the California dairy industry”:

The theme of these advertisements is to portray spacious, grassy pastures on beautiful, rolling hills with a few cows grazing and wandering about and ‘enjoying’ the ease, luxury, and contentment of life as a dairy cow in California. The tag line for each of these ads is ‘Great cheese comes from Happy Cows. Happy Cows come from California.’ In reality, however, the vast majority of California’s dairy cows live anything but easy, comfortable lives. They routinely spend their lives in ‘dry’ lots of grassless dirt (which become and remain mud

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<sup>5</sup> “‘Happy Cows’ Cheese Ads Called a Sad Tale; Idyllic Depiction is False Advertising, Animal Rights Group Says,” *San Francisco Chronicle*, April 30, 2002; “‘Happy Cows’ Ads Called Deceptive; PETA asks Trade Commission to End Dairy Campaign,” *San Mateo County Times*, April 30, 2002.

<sup>6</sup> “FTC Rejects Cow Ad Complaint,” *Contra Costa Times*, October 9, 2002.

<sup>7</sup> “Activists Seek End to ‘Happy Cows’ Ads,” *Associated Press*, December 11, 2002.

throughout some months of the year), in sharp contrast to the ‘fictional,’ idyllic setting of the ads...

According to PETA, these animals could not be “happy” by any human standard. In the end, the court didn’t rule on whether or not the cows were happy. It found that CMAB was a government agency and therefore not subject to false advertising laws.<sup>8</sup> On that day, the question of animal emotion was not one for the courts to decide.

CMAB’s “Happy Cows” campaign is one cultural artifact in a larger history of how Americans have thought about the animals that provide us with milk, meat, clothes, and other products. Thinking about food animals in recent history has meant applying to a new world the ethic of kindness and fellowship that nineteenth-century humane reformers sought to cultivate in the American people. Back then, Americans were asked, for example, to sympathize with the suffering of a carriage horse passing before their eyes on the city street, overloaded and beaten by a driver who seemed to represent all that was cruel in the human spirit. Americans in the late twentieth and early twenty-first centuries, whose networks of human-animal relations have been radically altered by a century of economic, industrial, and social transformations, have found themselves asked to sympathize with a massive population of animals separated by long physical distances and by hidden modes of production—the pig that becomes their bacon, the cow that becomes their shoes, the chicken that makes their eggs.

This human-animal geography has produced complacency among some consumers, but others have increasingly demanded information about the lives of the animals that make and are made into products. Growing concern for animal welfare has not been lost on the animal agriculture industry in America, where 9 billion animals are slaughtered for food every year. According to the

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<sup>8</sup> “Court Throws Out ‘Happy Cows’ Ad Suit,” *Associated Press*, March 26, 2003; *People for the Ethical Treatment of Animals v. California Milk Producers Advisory Board*, 125 Cal. App. 4th 871 (2005); Sonia S. Waisman, Pamela D. Frasch, Bruce A. Wagman, *Animal Law: Cases and Materials*. 3rd Ed. (Durham, NC: Carolina Academic Press, 2006), 349-350.

National Cattlemen's Association, since the 1980s more American citizens have contacted their congressional representatives about animal welfare than about any other single issue.<sup>9</sup> Selling animal products, in many markets, now means selling a story about how that product was produced, and buying animal products means consuming stories about the material and emotional lives of farmed animals. Michael Pollan, for example, has described shopping at Whole Foods as a "literary experience."<sup>10</sup> "Happy Cows" is not exceptional; it's emblematic of a growing interest in all things free-range, organic, cage-free, grass-fed, naturally- and humanely-raised, and sustainable—all direct or indirect signals to consumers that the animal in the animal product once lived a good life. They were once happy. Reading those stories, thinking about the lives of animals, and buying one product versus another means thinking about animal mental life: about emotions, feelings, suffering, and happiness. And like other times in this dissertation, thinking about animal suffering allows for moments of reflection on humanity. Youthful cruelty to animals allowed for reflection on human violence in civilized society. The cruel and cultural practices of people near and far allowed for reflections on civilization, barbarism, and modernity. In supermarket aisles, these stories, products, and purchases allow for reflection on the people we are, about the communities we make, about our cares, sympathies, and values. The history of meat eating has been filled with anxieties about the brutalizing effects of meat consumption on people. "Who will assert," Percy Bysshe Shelley asked in *A Vindication of Natural Diet* (1813), "that, had the populace of Paris satisfied their hunger at the ever-furnished table of vegetable nature, they would have lent their brutal suffrage to the proscription-list of Robespierre?"<sup>11</sup> We continue to think about what eating meat says about us and

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<sup>9</sup> Bernard Rollin, "Agribusiness and Consumer Ethical Concerns over Animal Use and Foods of Animal Origin: The Emergence of New Ethical Thinking in Society," in eds. John Hodges and In K. Han, *Livestock, Ethics and Quality of Life* (New York: CABI, 2001): 79-98.

<sup>10</sup> Michael Pollan, *The Omnivore's Dilemma: A Natural History of Four Meals* (New York: Penguin, 2006), 134.

<sup>11</sup> Tristram Stuart, *The Bloodless Revolution: A Cultural History of Vegetarianism from 1600 to Modern Times* (New York: Norton, 2006), 379. See Stuart generally on the link between meat consumption and debasement.



about what it might do to us. What do the lives and deaths of the animals we eat say about us? Are we kind, sympathetic, and progressive? Are we cruel, debased, and uncivilized? Are we something in between? Better check the label.

Narratives of animal happiness in grocery aisles are rooted in a long history of ideas about animal mental life, about whether animals can think, feel, perceive, reason, and remember. That history, as it has evolved in science, law, industry, and animal advocacy in the twentieth-century, is the subject of this chapter. Thinking about animal happiness and suffering means thinking about the ability of animals to experience those things. As Jeremy Bentham asked when assessing human obligations to animals: “can they suffer?”<sup>12</sup> I explained in my introduction that scientists, philosophers, animal advocates, and others have argued for centuries over theories of animal mental life. Some have attributed to animals a broad range of mental and emotional capabilities; others have attributed none; and many have staked out a middle ground. René Descartes offered the best-known comment on animal minds when he described animals as “machines”: automata lacking reason and a soul, and physically animated by spirit gases. That was an extreme position, but its reverberations can be seen in more recent arguments about “mere pain” versus “suffering” in Peter Carruthers’ *The Animal Issue* (1992) and in Stephen Budiansky’s *If a Lion Could Talk* (1998).<sup>13</sup> If theories of animal life were laid out on a spectrum, “animal machines” would be at one end. At the other would be a more recent formulation proposed by Tom Regan in his seminal *The Case for Animal Rights* (1983). Animals are not machines, he argued. Each animal is the “subject of a life,” with

beliefs and desires; perception, memory, and a sense of future, including their own future; an emotional life together with feelings of pleasure and pain; preference- and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity

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<sup>12</sup> Bentham, *An Introduction to the Principles of Morals and Legislation*, 310-11, n. 1; quoted in Favre and Tsang, “The Development of Anti-Cruelty Laws During the 1800’s,” 3.

<sup>13</sup> Peter Carruthers, *The Animals Issue: Moral Theory in Practice* (Cambridge: Cambridge University Press, 1992); Stephen Budiansky, *If a Lion Could Talk: Animal Intelligence and the Evolution of Consciousness* (New York: Free Press, 1998).

over time and an individual welfare in the sense that their experiential life fares well or ill for them, logically independently of their utility for others and logically independently of their being the object of anyone else's interests.<sup>14</sup>

"Subjects of a life" have complicated inner lives, in other words, even if their cognitive processes or intellectual capabilities do not fully resemble those of humans. They can be happy or unhappy, and when they feel pain, they don't feel "mere pain"; they merely feel pain and suffer like humans do.<sup>15</sup> The structuring logic of "cruelty to animals" and the whole enterprise of animal advocacy asks people to imagine animal life in terms much closer to Regan's than to Descartes'.

Few people today believe that animals are machines mobilized by spirit gases, but questions of cognition, perception, and emotion have continued to guide debates about animal welfare and rights, especially in the context of animal agriculture, where the scale of pain, suffering, and cruelty necessitates a reckoning with issues of animal mental life. Nine billion animals: they are either a lot of machines waiting to be processed or a lot of "subjects of a life" with complex physical and emotional needs. The distinction between Descartes' "animal machine" and Regan's "subject of a life" is therefore not an academic one—it has major implications for animal advocacy, government policy, industrial regulation, and the science and technology of animal agriculture. If farmed animals are machines, they need water, food, sleep, and shelter, administered in whatever ways keep them healthy and growing: "productive" as the meat industry terms it. If animals are unable to think about their environment and experience emotions about it, then it doesn't matter what that environment is like, so long as the animals remain productive. If animals are unable to experience pain subjectively ("suffering") then their physiological responses to painful stimuli ("mere pain") matter only insofar as they affect health, meat quality, and efficient production. If animals lack consciousness, then it matters little whether they are unconscious when a slaughterhouse worker hoists them by their hind

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<sup>14</sup> Tom Regan, *The Case for Animal Rights* (Berkeley: University of California Press, 1983), 243.

<sup>15</sup> Carson, *Men, Beasts, and Gods*, 38-40.

legs and slits their throats, except insofar as animated bodies slow the kill line. Conditions are entirely different if those 9 billion animals, or even if some of them (cows and pigs), are found to be the “subject of a life”: thinking, feeling, capable of suffering and misery, constantly aware of their environments, anticipating death, feeling stress, anxiety, and crippling fear—or even happiness if conditions are right.

This chapter, therefore, looks to the world of intensive animal agriculture to show how advocates, scientists, and industry personnel have understood animal mental life in the twentieth century. They have reshaped old ideas about animal nature, sentience, and suffering in the context a modern, industrializing, and growing world of animal agriculture, where massive animal populations are managed by complex regimes of science, technology, and knowledge. I argue that theories of animal mental life have helped produce this modern meat industry, and, inversely, that the modern meat industry has been the site where many ideas about animal nature, sentience, and suffering have evolved in the second half of the twentieth century. The chapter links several histories. I begin with a history of British and American advocacy surrounding humane slaughter in the first half of the twentieth century. Animal advocates in the nineteenth century had used sentimental discourses that encouraged humans to feel sympathy for animal suffering and feeling. In the twentieth century, they used a similar approach, emphasizing the subjective experience of animal suffering to critique “cruel” practices and technologies of slaughter that often led to animals being slaughtered while still conscious. In the United States, advocates used this discourse to secure passage of the Federal Humane Slaughter Act of 1958. Next, I examine the uneasy handling of issues related to animal mental life in the agricultural animal sciences after the passage of the Federal Humane Slaughter Act of 1958. I position the development of that science in the context of broader scientific trends and methodologies, especially behaviorism, which defined animal thoughts and emotions as off-limits to objective scientific inquiry at a moment when the intensification of animal farming made such

inquiries necessary, both for improving industrial efficiency and for satisfying humane regulations. The final section concerns the career of Temple Grandin, an animal scientist and one of the world's leading designers of humane slaughterhouse and animal handling systems. I trace her intellectual development, particularly in response to the scientific trends described above, and reveal how she has tried to make material in chutes, pens, and captive-bolt stunners a conception of animal mental life that takes seriously their capacity for suffering and joy. She has tried to make "happy cows" a reality, not just a story. At the same time her influence in the industry, in politics, among animal advocates, and in the popular media has helped give those supermarket stories shape, has helped make those products sell, and has helped us think about animal feelings and about our own human natures.

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Technologies and systems of slaughter, as well as legal regulations of the meat industry, developed in the context of a sentimental discourse of animal suffering. Toward the end of the twentieth century, animal advocates would emphasize suffering caused by living conditions, but for most of the century, advocates emphasized suffering at the moment of death. They and allied reformers demanded what they termed "humane slaughter": a means of limiting both physical pain and emotional suffering by ensuring that animals be unconscious at the moment of death. Most European countries passed humane slaughter laws by the mid-twentieth century. (Switzerland led the way in 1874.) In the United States, lobbying for humane slaughter paid off in the form of the Federal Humane Slaughter Act of 1958, the first federal intervention in the treatment of animals.<sup>16</sup> In the advocacy campaigns that made humane slaughter the law, sentimental appeals to animal suffering played an important role in convincing legislators and the public that animals were far more than machines; that they not only felt pain but suffered; that they could not only hurt physically, but emotionally, as well.

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<sup>16</sup> Jordan Curnutt, *Animals and the Law: A Sourcebook* (Santa Barbara, CA: ABC-CLIO, 2001), 168.

Advocating for humane slaughter meant arguing that animals were more than just machines—that they were, perhaps, subjects of a life.

Humane slaughter meant mandating, standardizing, and conceptually reframing an ancient slaughtering technology: knocking animals unconscious. For as long as humans have been slaughtered animals for food, they have clubbed them over the head to make the process easier. In some cultures, religious strictures required that an animal be conscious at the time of slaughtering (kosher and halal, for example), but otherwise, a person would begin the killing process by hitting an animal over the head with a heavy implement until it was unconscious. Then, he or she would hoist its body it from a beam or tree limb by its hind legs (a conscious cow does not easily allow itself to be hoisted), slit its throat (while suspended upside-down in the air, that same cow does not easily allow itself to be stuck in the neck), and wait while it bled to death. This remained the basic process of slaughtering for centuries.<sup>17</sup> The process persisted in the infamous Chicago and Cincinnati slaughterhouses of the mid-nineteenth century, even as slaughterhouses began processing as many as 250 cows per day. (For comparison, modern-day slaughterhouses process approximately 250 cows per hour.) Technological improvements were those that improved the speed of the kill line by rendering animals insensible with fewer blows. Nineteenth-century slaughterhouses introduced something called a “pole-ax,” for example, which was a long tool with a spike and a hammer designed to replace the sledgehammer. Pole-axes were considered a technological advancement, but it still often took several blows to stun a cow, at which point the industrial packing plant met the

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<sup>17</sup> In young cities like Boston, New York, and Philadelphia, farmers set up stalls in open-air marketplaces where they would slaughter animals to order using the same basic techniques of stun, hoist, and bleed. The first laws governing slaughterhouses were municipal codes that prevented animal slaughtering from taking place within city limits. (In New York City, animals were slaughtered near Wall Street until the practice was outlawed in 1676.) Slaughterhouses therefore developed on the peripheries of cities and were regulated in terms of *where* they could kill animals, but not *how*. See Curnutt, *Animals and the Law*, 165-167.

farmhouse, as workers hoisted the cow by one leg using chains and pulleys and slit its throat.<sup>18</sup>

The techniques of humane slaughter were therefore already built into the existing methods of animal slaughtering. Slaughterhouses were already stunning animals. But regulation and reframing turned stunning from a commonsense technique into a humane one. Take the pole-ax. On its face, there was nothing particularly humane about it. Properly wielded, though, it could be a tool of humane slaughter, hence a manual published in London in 1932 called *Pistol v. Poleaxe: A Handbook on Humane Slaughter*.<sup>19</sup> The key to humane slaughter was to ensure that animals were stunned by a single blow and rendered unconscious before they were hoisted and bled. The alternative was immortalized in Upton Sinclair's *The Jungle* (1906), which included scenes where cows were repeatedly struck in the head and turned into frenzied, bloodied, violent animals, hoisted kicking and screaming, and bled alive. Scenes such as those became staples of human slaughter advocacy. They were not depictions of mere pain, but of terror and panic. They illustrated the difference between pain and suffering—a difference that turned on the mental capacity of animals to experience emotions such as fear, anxiety, and an anticipation of death. “Pain” technically refers to a physiological response to a painful (or as scientists say, “noxious”) stimulus; the subjective experience of the noxious stimulus is called “suffering,” which can include anxiety, stress, foreboding, and fear. Without subjective experience, animals can only experience “mere pain.”<sup>20</sup>

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<sup>18</sup> Curnutt, *Animals and the Law*, 165-167. Descriptions of how animals are slaughtered are widely available. For popular accounts see Pollan, *Omnivore's Dilemma*; Eric Schlosser, *Fast Food Nation* (Boston: Houghton Mifflin, 2001); and Jonathan Safran Foer, *Eating Animals* (New York: Little, Brown, 2009). Classic exposes by advocates: Ruth Harrison, *Animals Machines: The New Factory Farming Industry* (London: V. Stuart, 1964); Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (New York: Random House, 1975). Historical work: Louis Carrol Wade, *Chicago's Pride: The Stockyards, Packingtown, and Environs in the Nineteenth Century* (Chicago: University of Illinois Press, 1987); Roger Horowitz, *Putting Meat on the American Table: Taste, Technology, Transformation* (Baltimore: Johns Hopkins University Press, 2006); Wilson J. Warren, *Tied to the Great Packing Machine: The Midwest and Meatpacking* (Iowa City: University of Iowa Press, 2007).

<sup>19</sup> Lettice Macnaghten, *Pistol v. Poleaxe: A Handbook on Humane Slaughter* (London: Chapman and Hall, 1932).

<sup>20</sup> Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, and Practical Ethics* (New York: Oxford University Press, 2009), 10; Marian Stamp Dawkins, *Animal Suffering: The Science of Animal Welfare* (New York: Chapman and Hall, 1980), 25. In colloquial use, pain can imply both the physiological registering of pain and the subjective experience of it.

Animal advocates considered single-blow stunning humane not just because it limited physical pain at the moment of death, but also because it limited emotional pain by rendering animals insensible to the experience. And visions like the one from Sinclair appeared time and again as animal advocates in the United States and the UK made the case for humane slaughter laws. As they had in the campaign to secure anti-cruelty statutes, these sentimental appeals to animal suffering played a key role in convincing legislators and the public that these animals—the ones that were being clubbed with sledgehammers and pole-axes, hung conscious and injured by their hind legs, and bled out alive—were more than animal machines.

Humane slaughter advocates in the first half of the twentieth century, therefore, emphasized suffering as well as pain, describing terrified animals as much as injured ones. These discourses made a case against cruelty, but they also made an argument about the mental and emotional capabilities of animals. For example, John Galsworthy, British author of *The Forsyte Saga*, focused on “suffering” in an article about humane slaughter that appeared in *The Daily Mail* in 1912. Galsworthy noted that the law criminalized acts of malicious animal abuse, but that slaughterhouses, which inflicted suffering on a massive scale, were not regulated. Even accurate stunning produced “some seconds of acute suffering.” And pigs, generally clubbed and killed en masse, were “driven in gangs into a small space and there killed, one by one, with the others squealing in terror round their bodies.”<sup>21</sup> Galsworthy repeatedly used the word “suffering” to describe the experiences of animals in slaughterhouses, an emphasis on subjectivity that he underscored in his vivid rendering of pigs “squealing in terror round” the bodies of the dead and dying. The solution for stunning was to

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Suffering, similarly, can describe extreme physical pain. To avoid confusion, some scientists have relied on the term “nociception,” which refers exclusively to physiological pain responses. (See Larry Carbone, *What Animals Want: Expertise and Advocacy in Laboratory Animal Welfare Policy* (New York: Oxford University Press, 2004), 162.) In short, any being with a nervous system can technically feel pain. Whether nonhuman animals experience suffering has been contested for centuries, as I’ve noted.

<sup>21</sup> John Galsworthy, *A Sheaf* (New York: Charles Scribner’s Sons, 1916), 50-51; emphasis in original.

require single blows and unconsciousness. He also outlined the “segregated slaughter principle,” which was designed to keep animals from seeing other animals being slaughtered, an experience that he and fellow advocates thought caused animals mental terror.

Among the texts Galsworthy cited on humane and segregated slaughter were a paper by physiologist Benjamin Ward Richardson and the Report of the Admiralty Committee on Humane Slaughtering of Animals. The latter was the result of research by seven British governmental institutions: the Admiralty, War Office, Department of Agriculture, City of London Markets Committee, and London County Council.<sup>22</sup> Richardson and the Admiralty both argued that animals were frightened by the sight, sound, and smell of other animals being slaughtered.<sup>23</sup> In a paper presented to the Medical Society of London, Richardson clearly distinguished between pain and suffering by claiming, “Pigs... *suffer a mental terror of death*, and to them commonly is also given a severe degree of physical pain... When they are killed by the knife alone they die by a haemorrhage that may extend with persistent consciousness over three or four minutes of time.”<sup>24</sup> The Admiralty Committee, too, had seen the logic of segregated slaughter when they published their report. The Committee offered a qualified acceptance of the theory:

It appears to be the common practice, even in modern and well-regulated slaughter-houses, to keep the animals which are immediately awaiting slaughter in pens which are mere annexes to the slaughter-chamber itself, and in many cases in full view of all that goes on inside... There is no point which the Committee have more carefully investigated than the question as to whether animals do or do not suffer from fear from this contact, and the evidence of those best qualified to judge is so conflicting that no absolute verdict can be given... The animal should be given the full benefit of the doubt.<sup>25</sup>

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<sup>22</sup> Chris Otter, “Civilizing Slaughter: The Development of the British Public Abattoir, 1850-1910,” in Paula Young Lee, *Meat, Modernity, and the Rise of the Slaughterhouse* (Durham, NH: University of New Hampshire Press, 2008), 123; Hugh Chisholm, ed. *Encyclopedia Britannica: A Dictionary of Arts, Sciences, Literature and General Information*, 11<sup>th</sup> ed., vol. 25 (New York: University of Cambridge Press, 1911), 216.

<sup>23</sup> Committee on the Humane Slaughtering of Animals, *Report of the Committee appointed by the Admiralty to consider the humane slaughtering of animals, with appendix* (London: HMSO, 1904).

<sup>24</sup> Quoted in Galsworthy, *A Sheaf*, 60.

<sup>25</sup> Quoted in *Ibid*, 61.



The Admiralty Committee did give the animals the full benefit of the doubt and made segregated slaughter one of their recommendations in 1904, recommendations that the UK would not act on until 1933, when it passed the Slaughter of Animals Act. That Act took up both of the Admiralty's recommendations: that animals be rendered insensible before being bled, and that animals not be killed within sight of a living animal: a clear indication that the regulation of animal slaughtering in Britain took at least some account of animals' subjective experiences, of their capacity for not only sensing pain but for experiencing suffering.

In the United States during the same period, the American Society for the Prevention of Cruelty to Animals was making the same argument about emotional suffering and humane slaughter. The ASPCA, which embraced the segregated slaughter principle, used the term "mental anguish" to describe the experience of cattle that were slaughtered within sight of one another.<sup>26</sup> When the United States federal government finally acted, more than two decades after the UK, its Federal Humane Slaughter Act, adopted in 1958, did not embrace the segregated slaughter principle, but the language of suffering was preserved. The statute itself began, "The Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering."<sup>27</sup> It was a subtle, and perhaps unintended codification in law of sentimental discourses about animal emotion.

Subjective language of suffering and fear suffused the arguments of advocates who supported passage of the U.S. law. In 1956, for example, the *New Republic* published an editorial titled, "Still the Jungle," which began with a paragraph-long description of animal slaughtering that would have rivaled in grotesqueness the most horrifying of Upton Sinclair's passages. It began by

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<sup>26</sup> "Wants Reform in Killing—Society Says Cattle Suffer 'Mental Anguish' in Seeing Others Slain," *The New York Times*, April 5, 1921.

<sup>27</sup> Federal Humane Slaughter Act (1958), 7 U.S.C.A. §1901.

noting that “two hundred and eight million animals are slaughtered each year to feed Americans, and by primitive methods that cause great suffering.” It went on to describe animals beaten repeatedly with iron mallets, conscious animals strung up by broken legs, the use of saws and knives, and how “hogs with slit throats frequently pass, still squealing, into scalding vats.”<sup>28</sup> It would have been difficult for readers to interpret a scene like that one as being solely about physical pain and not about the subjective experience of being boiled alive or strung up by broken legs. A reader, Christine Stevens from New York, made that point when she wrote in response to the editorial. She thanked the *New Republic* for highlighting the “cruelty and suffering which continue without reason in most of the slaughterhouses in this country” and bemoaned the fact that “a billion and more food animals have died in pain and terror as a result of our failure to legislate for their protection.”<sup>29</sup> Pain and terror were related but distinct in Stevens’ figuration, as in others.

Discourses of suffering appeared in many American newspapers, which provided regional and national forums for discussion of the Humane Slaughter Act while it was being considered and then implemented. Letters to the editors of papers like the *New York Times* and the *Chicago Tribune* recorded the arguments that citizens were likely making in what the *Times* described as a “deluge” of letters to members of Congress in support of the bill.<sup>30</sup> Most writers used terms like “cruel,” “inhumane,” and “barbaric” to describe slaughtering techniques (comments on conditions, treatment, and human behavior) but many writers explicitly emphasized suffering, terror, and other subjective aspects of slaughter. Helen Jones, of the National Humane Society, wrote of the “torture” that slaughtered animals experienced in slaughterhouses in a letter to the *Times*. Describing the “moaning, bellowing, squealing and other sounds of agony that issue from American

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<sup>28</sup> “Still the Jungle,” *The New Republic*, June 18, 1956, 4-5.

<sup>29</sup> “Correspondence,” *The New Republic*, July 9, 1956, 23.

<sup>30</sup> “Humane Appeals Swamp Congress,” *New York Times*, May 4, 1958.

slaughterhouses,” she asked that people reflect on their humanity, and find “compassion for the utterly helpless animals that go to the almost incredible suffering that awaits them in slaughterhouses.”<sup>31</sup> (A representative of the American Meat Institute took issue with Jones’ language. “It is quite natural,” he wrote to the *Times*, “for cattle to bellow and pigs to squeal... To make it appear that these sounds are evidence of ‘agony’ or ‘cruelty’ is intemperate, to say the least.”)<sup>32</sup> Another writer to the *Times* lamented the “atrociously cruel methods” of unregulated slaughterhouses and urged Congress to “compel the meat-packing industry to slaughter animals and poultry without inflicting pain and fear.”<sup>33</sup> Allan Beach, writing to the *Chicago Tribune*, described the “atrocious cruelty in slaughterhouses” where animals were “subjected to almost incredible agony.” Slaughterhouse workers, known as knockers, brought hammers “down repeatedly on the terrified animals’ heads,” and animals were stuck “while fully conscious and allowed to bleed to death while struggling, shrieking and moaning.”<sup>34</sup> The *Washington Post* also used the language of suffering and fear when it published an editorial in support of the federal bill. “Cattle, sheep, calves and hogs are commonly killed in this country,” the *Post* claimed, “by techniques which subject them to senseless terror and suffering.”<sup>35</sup>

Animal advocates and sympathetic members of the public did not stop talking about animal sentience, suffering, and slaughter in 1958. The final version of the Federal Humane Slaughter Act had loopholes: it did not make compliance compulsory; it applied only to slaughterhouses with

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<sup>31</sup> “Letters to the Times; For Humane Slaughtering, Passage of Law Advocated to Curb Suffering of Animals,” *New York Times*, May 28, 1956.

<sup>32</sup> “Letters to the Times; Slaughter of Animals, Industry Said to Conduct Research to Improve Methods,” *New York Times*, June 5, 1956.

<sup>33</sup> “Letters to the Times; For Humane Slaughter Law—Hope Expressed that Next Congress Will Legislate Improved Methods,” *New York Times*, July 28, 1956.

<sup>34</sup> “For Humane Practices in Slaughterhouses,” *Chicago Tribune*, January 4, 1956.

<sup>35</sup> “Humane Slaughter,” *Washington Post*, May 7, 1956.

contracts to supply federal agencies; it had no mechanisms of enforcement; and it included religious exemptions.<sup>36</sup> Humane slaughter campaigns continued, nationally and at the state level, keeping alive the conversation about animal natures and about the suffering that animals could or should endure to feed America. The religious exemption for kosher slaughtering was particularly troubling for some advocates. It was an issue in New York, for example, where a humane slaughter bill was gathering support in the 1960s. The *New York Times* voiced support for the law in an editorial that bemoaned the “unspeakable pain and torture” of animals.<sup>37</sup> The paper also printed an advertisement by the advocacy group, Friends of Animals, Inc., which targeted kosher slaughtering in particular. It announced in large, bold print, “THE MEAT YOU EAT IS SEARED WITH PAIN,” and described how, in the words of an anonymous rabbi, when slaughtered according to kosher law, “the animal screams and bellows until the *Shochet* cuts its throat, thus putting it out of its misery.” Friends of Animals, Inc. encouraged readers to support the Hausbeck Humane Slaughter Bill, which, it promised, would “end the cries of pain and terror for all animals in all slaughterhouses.”<sup>38</sup>

Throughout the humane slaughter campaigns, animal advocates and their sympathizers emphasized animal fear, terror, and misery. It seemed impossible that an animal could be happy in the world of intensive farming, but perhaps fear could be eliminated. Fear and its various related emotions—anxiety, stress, distress, and terror—would become the central concern of farm animal welfare over the second-half of the twentieth century, as advocates turned their attention from the moment of death to the lived existences of animals, and as the developing discipline of animal science struggled to take account of animal minds, emotions, and behaviors—all things that were prevalent in humane discourse and codified implicitly in law.

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<sup>36</sup> Curnutt, *Animals and the Law*, 171.

<sup>37</sup> “Needless Torture of Animals,” *New York Times*, March 18, 1964.

<sup>38</sup> Friends of Animals, Inc., “The Meat You Eat is Seared with Pain” (advertisement), *New York Times*, December 27, 1965.

These arguments about animal mental life engaged much older ideas about animal natures and drew on nineteenth-century sentimental ideas about animal feeling and suffering. For decades, humane reformers had deployed this vision of animal life in their effort to make America a more ethical, modern, and progressive nation. The American scientific establishment, a different kind of modernizing force, was less accepting of that vision than was the public at large. As the burgeoning and intensifying industry of animal agriculture embraced new forms of scientific and technologic knowledge in the years after World War II, science and advocacy intersected in fraught ways. So too did competing visions of animal mental life: on the one hand, the vision disseminated by animal advocates and their allies, and on the other, a vision shared by most scientists, in which animals were fundamentally animal machines in so far as their bodies and behaviors were appropriate subjects of research and knowledge, but not the “black box” of animal consciousness and emotions. At a moment when the scientific and technological infrastructure of the modern meat industry was developing, there was no scientific consensus about animal minds, emotions, and behaviors to guide the creation of systems for raising and slaughtering them.

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The depiction of animal mental life offered in humane slaughter advocacy, and in animal advocacy more generally, would not necessarily have been “unscientific” in the nineteenth century, but it would be by 1958. Animal mental life was not always a taboo subject for scientists, especially when it came to thinking about the line between humans and animals. Charles Darwin published an entire book on the topic: *The Expression of Emotions in Man and Animals* (1872). There he argued that the “higher faculties” of the human mind evolved from faculties present in animals, and that, as far as minds and emotions were concerned, humans and animals were separated in degree, not in kind.<sup>39</sup>

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<sup>39</sup> Joe Cain, “Introduction” in Charles Darwin, *The Expression of Emotions in Man and Animals* (1890; New York: Penguin, 2009), xvii-xx. Darwin published the first edition of *The Expression of Emotions in Man and Animals* in 1872, and a revised second edition appeared in 1890, eight years after his death. All quotations refer to the second edition.

Darwin was responding to the theories of Sir Charles Bell, an English surgeon and a foundational figure in the history of neurology, who laid out an anthropocentric theory of emotions and facial expressions in “Anatomy and Philosophy of Expression in Painting” (1806) and in “Essays on the Anatomy and Philosophy of Expression” (1824). Bell believed that the human face and its musculature were uniquely designed by God to express emotions, and that the experience and expression of those emotions established a clear line between humans and animals.<sup>40</sup> Darwin sought to trouble that line. According to Darwin, Bell wanted to “draw as broad a distinction between man and the lower animals” as possible, an approach that Darwin thought erased the evolutionary history of emotion and its expressions. “No doubt as long as man and all other animals are viewed as independent creations,” he wrote,

An effectual stop is put to our natural desire to investigate as far as possible the causes of Expression... [W]ith mankind some expressions, such as the bristling of the hair under the influence of extreme terror, or the uncovering of the teeth under that of furious rage, can hardly be understood, except on the belief that man once existed in a much lower and animal-like condition.<sup>41</sup>

Terror, rage, the bristling of hair, and the uncovering teeth revealed the beast in the man, as other emotions revealed the man in the beast. Elsewhere in public discourse, nineteenth-century animal advocates were humanizing suffering animals and bestializing cruel humans for the purposes of ethics. Darwin was similarly troubling the human-animal divide for the purposes of scientific knowledge.

The animals in *Expression* were unmistakably subjects of a life who could experience a broad range of emotions, such as happiness and sadness, as well as more complex emotions such as jealousy. He wrote, in response to Bell, that dogs were much better at displaying happiness than

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<sup>40</sup> Quoted in Darwin, *The Expression of Emotions in Man and Animals*, 22.

<sup>41</sup> Ibid, 23.

humans. “Man himself cannot express love and humility by external signs, so plainly as a dog,” he wrote, “when with dropping ears, hanging lips, flexuous body, and wagging tail, he meets his beloved master.” He elsewhere described dogs “in a savage or hostile state of mind” at one moment, and at another, “clearly expressive of affection.” Darwin’s own dog began walks with a “joyful yet dignified bearing” but expressed “piteous, hopeless dejection” when they ended. It was not just dogs; cows, too, would “frisk about from pleasure.” For an animal in terror, as for a human, “the mental faculties are much disturbed.” Orangutans and chimpanzees, when sick, suggested a “state of mind and body” that was “almost as pathetic as in the case of our children.” “With lower animals,” he wrote, “we see the same principle of pleasure derived from contact in association with love.”<sup>42</sup> Jealousy, pleasure, love, “state of mind and body,” dejection, joy, sorrow, “hostile state of mind,” excitement, affection: Darwin used unambiguous and subjective language to present the range of emotions experienced and expressed by the animals in *Expression*. Only a few decades later, that sort of language would be anathema to many scientists. Darwin wrote *Expression* in opposition to theories of animal life that denied volition, emotion, and perception, and that strictly divided the human and the animal. His ideas would survive in some scientific circles, such as animal ethology, but many scientific disciplines, especially psychology, would discard them as non-scientific.<sup>43</sup>

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<sup>42</sup> Ibid, 22, 58, 63, 112, 79, 128, 197.

<sup>43</sup> This disciplinary shift was by no means predetermined in the late nineteenth century. Darwin found company among his contemporaries. Alexander Bain, a Scottish professor and author of *The Senses and the Intellect* (1855) and *The Emotions and the Will* (1859), thought that animal behavior was a mix of actions controlled by the nervous system (basically physiological responses to stimuli) and what he called “spontaneous activity”: acts of volition, or, as he put it, “the exercise or active energy originating in purely internal impulses.” He described the development of volition in baby lambs. Immediately after birth, they seemed to move without awareness or purpose. “in less than twenty-four hours,” however, according to Bain, “the animal could at the sight of the mother ahead, move in the forward direction at once to come up to her, showing that a particular image had now been associated with a definite movement, the absence of any such association being most manifest in the early movements of life. It could proceed at once to the teat and suck, guided only by its desire and sight of the object.”<sup>43</sup> In addition to Bain, an even clearer champion of animal consciousness as a legitimate topic of inquiry was George Romanes, an evolutionary biologist and author of *Animal Intelligence* (1881) and *Mental Evolution in Animals* (1884). Romanes was close friends with Darwin and he agreed with the arguments that his friend and colleague had made in *The Expression of Emotion* that animals had emotions, minds, and intelligence. For Romanes, animal and human minds were not essentially different, and the key to accessing the inner lives of animals was to make educated inferences based on the observation of behavior. Nonetheless, a hierarchy of

To Darwin and likeminded contemporaries, animals were certainly subjects of a life. But by the turn of the twentieth century, changes in the field of psychology made it difficult for scientists to seriously study animal emotions. A growing number of psychologists at this time believed that a science with any practical value should only study what could be measured, calculated, observed, and catalogued empirically.<sup>44</sup> The words of British psychologist Conwy Lloyd Morgan came to rule the day, at least in theory if not always in practice. Morgan, who published *Animal Life and Intelligence* in 1890, thought that relationships with companion animals tended to cloud thinking when it came to assessing animal capabilities, and that it was necessary for scientists to “distinguish observed fact from observer’s inference”: “In no case may we interpret an action as the outcome of the exercise of a higher psychical faculty, if it can be interpreted as the outcome of the exercise of one which stands lower in the psychological scale.”<sup>45</sup> This sentence became known as “Morgan’s Canon”—a call for a more cautious approach to the observation of animal behavior and for an end to anthropomorphic inferences. Just because a dog seemed happy did not mean that it was happy, or that canine species were capable of experiencing and expressing happiness. Morgan’s Canon shaped both methods and topics of psychological research. Studying animal happiness and suffering was no longer scientific. It was anthropomorphic.

These concerns and convictions led to a major disciplinary realignment whereby psychologists turned their attention away from minds and consciousness and toward behavior and environment, a shift with major repercussions for the study of animal life. In the early twentieth century, James Watson, an American psychologist, pioneered this new approach. He called it “the science of behaviorism,” and it became the dominant mode of psychological inquiry for several

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intelligence remained. Romanes, for example, had a scale of intelligence See Robert Boakes, *From Darwinism to Behaviorism: Psychology and the Minds of Animals* (New York: Cambridge University Press, 1984), 9, 27.

<sup>44</sup> Ibid, 158.

<sup>45</sup> Ibid, 33; C.L. Morgan, *Introduction to Comparative Psychology* (London: W. Scott, 1894), 53.



decades until it was gradually replaced between the 1950s and 1980s by another disciplinary realignment called the “cognitive revolution.” Behaviorism sought to eliminate introspective approaches from psychology. In 1913, while animal advocates in Britain and the United States were using visions of animal suffering to campaigning for humane slaughter laws, Watson gave a lecture at Columbia University called, “Psychology as the Behaviorist Views It.” Reprinted in *Psychology Review* that same year, it became a seminal article in the history of psychology. “Psychology as the Behaviorist Views It,” Watson announced at the opening of the article,

is a purely objective experimental branch of natural science. Its theoretical goal is the prediction and control of behavior. Introspection forms no essential part of its method, nor is the scientific value of its data dependent upon the readiness with which they lend themselves to interpretations of consciousness.<sup>46</sup>

The next year, Watson published an extended treatise on the topic, *Behavior: An Introduction to Comparative Psychology* (1914). There he argued, “psychology must change its viewpoint so as to take in facts of behavior whether or not they have bearing upon problems of ‘consciousness.’”<sup>47</sup> Otherwise, he warned, the study of behavior would become its own science, leaving psychology to speculate about thoughts and feelings. “Any other hypothesis,” he wrote, “than that which admits the independent value of the behavior material will inevitably force us to the absurd position of attempting to *construct* the conscious content of the animal whose behavior we have been studying.” The task at hand, he believed, was to determine things like the animal’s “ability to learn, the simplicity or complexity of its methods of learning, the effect of past habit upon present response, the range of stimuli to which it ordinarily responds, [and] the widened range to which it can response under experiment conditions.” These things could be measured, quantified, and catalogued, but under the dominant psychological regime in 1914, “the results are worthless, until

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<sup>46</sup> John Watson, “Psychology as the Behaviorist Views It,” *Psychology Review* 20 (1913): 158.

<sup>47</sup> John Watson, *Behavior: An Introduction to Comparative Psychology* (1914; New York: Henry Holt, 1967), 3.

we can interpret them by analogy in the light of consciousness.”<sup>48</sup> Psychology needed to be redefined as the “science of behavior” and psychologists should “never go back on the definition: never to use the terms consciousness, mental states, mind, content, will, imagery, and the like.”<sup>49</sup>

Behaviorism would thus produce scientific knowledge about animals that was no longer corrupted by sentimental visions of animal happiness and suffering. This new science would need a new language: one that was scientific, technical, and objective, not descriptive, anecdotal, and anthropomorphic. Watson advised colleagues how to present research in this new language. For example, how should a scientist of behavior articulate an observation about an animal’s learned response to monochromatic light? “One may choose the psychological way,” he wrote, “and say, ‘does the animal see these two lights as the human being does, i.e., as two distinct colors?’” That phrasing was inadvisable. “Phrased by the behaviorist,” he instructed, “it would read as follows: ‘Is my animal responding upon the basis of the difference in intensity between the two stimuli, or upon the difference in wave-lengths?’”<sup>50</sup> The distinction between those two ways of asking and answering a research question was more than semantic. Pure behaviorists were not to study thoughts, emotions, feelings, and subjective experience. And in writing about animal behavior, learning, and stimulus-response, they were not to write in ways that suggested thoughts, emotions, feelings, and subjective experience.

Behaviorism became the dominant mode of psychological inquiry for much of the twentieth century, especially in the 1940s and 1950s, under the iconic Harvard behaviorist, B.F. Skinner. Its influence persisted well beyond its heyday.<sup>51</sup> It was not the only mode of inquiry—competing

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<sup>48</sup> Ibid, 3.

<sup>49</sup> Ibid, 9.

<sup>50</sup> Ibid, 13.

<sup>51</sup> Kenneth and Joel Shapiro, *Animal Modes of Human Psychology: Critique of Science, Ethics, and Policy* (Seattle: Hogrefe & Hubar, 1998), 77, 16; Clive D.L. Wynne, *Animal Cognition: The Mental Lives of Animals* (New York: Palgrave, 2001), 7-9.

methodologies persisted in adjacent and developing fields such as ethology and cognitive psychology—but it was influential, and its effect on the study of animal mental life remains unknowable and immeasurable. Behaviorism was often less strict in practice than in theory, and psychologists studying human behavior were well aware (if disciplinarily skeptical) of their own thoughts, memories, perceptions, and emotions. What Skinner called the “black box”—the inaccessible internal processes of the mind, the link between stimulus and response—was therefore theoretical for humans. But for the study of animals, the “black box” was a conceptual divide between the human and the animal. Behaviorism, while it produced a great deal of important knowledge about the relationship between behavior and environment, made it difficult for scientists to ask questions about animal minds and feelings at a time in American history when asking and answering those questions might have influenced animal welfare regulations and the science and technology of intensive farming.

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Science and advocacy increasingly intersected in the years after the Federal Humane Slaughter Act was passed, and so too did competing visions of animal life: one rooted in sentimentalism, traditional humane discourse, and animal emotion; and the other in new scientific methodologies that treated animals more like stimulus-response machines. As animal advocates succeeded in using their vision to secure new laws regulating the raising, handling, and slaughter of animals, the meat industry turned to new forms of scientific and technological knowledge to maintain profitability within new and evolving humane regulations. Animal subjectivity became a leading topic of animal science research, one that revealed the limitations of dominant scientific methodologies in dealing with the material realities of the factory farm.

Meatpackers had long embraced new technologies that streamlined production, and by the end of the nineteenth century they were using science to better understand animals and to improve

their product: meat. The first meat science class in the United States was held at the University of Minnesota in 1894. It was called “Killing, Dressing, Cutting, and Curing Meat.” In 1905, the university established the first meat science department. The institutional base of American meat science developed gradually in the first half of the twentieth century and began to pick up pace in the 1940s. The *Journal of Animal Science* began publishing in 1942. The Reciprocal Meat Conference, which gathered meat scientists from across the United States, met for the first time in Chicago in 1948. The American Meat Institute, founded in 1906 after the passage of the Federal Meat Inspection Act, founded the American Meat Institute Foundation in 1944, a laboratory research arm located at the University of Chicago. The institutions of meat science and their connections to industry developed rapidly in the 1950s, 1960s, and 1970s, while research exploded. In 1964, attendees of the Reciprocal Meat Conference at the University of Wisconsin-Madison formally incorporated the American Meat Science Association. The *Journal of Animal Science* created a section devoted to meat science in 1967. *Meat Science*, the official journal of the American Meat Science Association, began publishing in 1977. And in 1979, the American Meat Institute moved its headquarters from Chicago to Washington, DC in order to “be closer to the federal government while regulatory and legislative affairs dominated the Institute’s agenda”—as the AMI explains on their current website.<sup>52</sup>

As the AMI suggested, the institutional infrastructure of industrial science and technology developed in the context of animal welfare regulations (in addition to many other federal regulations related to quality, health, and labor) and in the context of public discourses surrounding the enactment of those regulations. Animal welfare regulations drew on and required new technological and scientific knowledge—knowledge that, in turn, looped back to shape ideas about animal

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<sup>52</sup> D.H. Beerman, “ASAS Centennial Paper: A Century of Pioneers and Progress in Meat Science in the United States Leads to New Frontiers,” *Journal of American Science*, vol. 87, no. 3 (2009): 1192-1198; American Meat Institute, “History,” available at <http://www.meatami.com/ht/d/sp/i/232/pid/232>

suffering and laws of humane treatment. The Federal Humane Slaughter Act of 1958 was just the beginning of humane regulations, which developed over the decades that followed. In 1978 Congress revised the Humane Slaughter Act, renaming it the Humane Methods of Slaughter Act and making several additions to the original law. It made humane slaughter mandatory for all slaughterhouses, not just those supplying meat to government agencies, and empowered the United States Department of Agriculture to inspect plants, enforce the law, and stop the kill line if animals were being slaughtered inhumanely. A year later, the USDA established further regulations for the humane handling and slaughter of livestock. Animals were to be stunned one at a time and in a single file before being slaughtered. Regulations permitted only a single stunning application, no more. “[T]he stunning operation is an exacting procedure that requires a well-trained and experienced operator,” the USDA noted. “He must be able to place the stunning instrument to produce immediate unconsciousness.” For animals such as pigs, sheep, lambs, and calves, electrical stunning methods required “suitable timing, voltage, and current control devices” in order to “ensure that each animal receives the necessary electrical charge to produce immediate unconsciousness.”<sup>53</sup> In addition to slaughter and stunning, these new humane regulations governed other aspects of animal raising, handling, and transport. They mandated that ramps, chutes, and gates be maintained and repaired, and that floor surfaces be made of non-slip materials. If animals were kept in a holding pen for more than twenty-four hours, they were to be fed within that time, and water was to be constantly available. When driving livestock, workers were to move animals “with a minimum of excitement and discomfort to the animals.” Workers could use electrical prods, but only at a voltage below 50 volts AC. Sharp objects could not be used at all.<sup>54</sup>

Evolving knowledge about animal bodies and behaviors helped shape these regulations over

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<sup>53</sup> Curnutt, *Animals and the Law*, 172-175.

<sup>54</sup> Ibid.

time, and the industry's reaction to regulation entailed a parallel endeavor of knowledge production and application in its institutions of scientific and technological research. Those institutions, though, emerged in a scientific context that made it difficult to think about animal mental life, even as new humane regulations emerged out of discourses of animal suffering, fear, and misery. An entirely different language emerged among animal scientists: a technical language that focused primarily on animal physiology and on the interrelation of environment, behavior, and productivity.

Many researchers studied humane slaughter and stunning technology, which was important for keeping the kill line moving quickly, for passing animal welfare audits, and for producing quality meat. Some aimed to find ideal voltages for electrical stunning. Others sought to improve the stunning of cattle using captive-bolt guns, which rapidly shot a bolt into the cow's skull and then retracted it, readying itself for the next cow in line. They published their findings in the pages of *Journal of Animal Science*, *Meat Science*, and other journals, and gradually developed industry standards for stunning procedures. These studies had names such as: "Time of Onset of Insensibility in Four- to Six-Week-Old Calves During Slaughter"; "Electrical Stunning of Lambs: The Effect of Stunning Parameters and Drugs Affecting Blood Flow and Behaviour on Petechial Haemorrhage Incidence"; "Differential Effects of Electrical Stunning on the Early Post-Mortem Glycolysis in Sheep"; "Vasopressin and Oxytocin in Plasma of Veal Calves, Sheep and Pigs After High Voltage Electrical Stunning"; and "Jugular Blood Flow in Calves After Head-Only Electrical Stunning and Throat Cutting."<sup>55</sup>

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<sup>55</sup> D.K. Blackmore, J.C. Newhook, and T. Grandin, "Time of Onset of Insensibility in Four- to Six-Week-Old Calves During Slaughter," *Meat Science*, vol. 9, no. 2 (1983): 145-149; C.E. Devine, K.V. Gilbert, and S. Ellery, "Electrical Stunning of Lambs: The Effect of Stunning Parameters and Drugs Affecting Blood Flow and Behaviour on Petechial Haemorrhage Incidence," *Meat Science*, vol. 9, no. 4 (1983): 247-256; C.E. Devine, S. Ellery, L. Wade, and B.B. Chrystall, "Differential Effects of Electrical Stunning on the Early Post-Mortem Glycolysis in Sheep," *Meat Science* vol. 11, no. 4 (1984): 301-309; E. Lambooy, W.B.J. Mens, T.J.B. van Wimersma Greidanus, "Vasopressin and Oxytocin in Plasma of Veal Calves, Sheep and Pigs After High Voltage Electrical Stunning," *Meat Science*, vol. 14, no. 3 (1985): 127-135; F. Bager, C.E. Devine, K.V. Gilbert, "Jugular Blood Flow in Calves After Head-Only Electrical Stunning and Throat Cutting," *Meat Science*, vol. 12, no. 3 (1988): 237-243. Several of the above studies were performed at the Meat Industry Research Institute of New Zealand, which was founded in 1955. The New Zealand economy has long been tied to its

Researchers referred in some of these articles to the dual purposes of their experiments: to satisfy animal welfare regulations and to improve efficiency. The authors of “The Effect of Electrical Stunning and Slaughter on the Electroencephalogram of Sheep and Calves,” for example, wrote, “from a humane aspect, animals must be insensible to noxious stimuli during slaughter. Identifying the onset of insensibility is difficult and is likely further complicated by the type of stun or slaughter treatment the animal receives.”<sup>56</sup> The authors of “The Effectiveness of High Frequency Electrical Stunning in Pigs” similarly noted that their research proved, “high frequency stunning produced epilepsy and unconsciousness and appeared therefore to be acceptable from an animal welfare standpoint.”<sup>57</sup> In this study, researchers found a solution to the humane slaughter requirement but discovered that it had the potential to disrupt efficient slaughtering. If a stunned pig were to regain consciousness in the shortened interval between stunning and sticking, the production line would be stopped. The British authors of “Pig Slaughtering Procedures: Head-to-Back Stunning” had similar problems creating technologies that were both humane and efficient. “Preslaughter stunning of pigs, introduced in the late 1920s and made mandatory in the UK Slaughter of Animals Act,” they wrote, “has traditionally produced a conflict of interests between those primarily concerned with animal welfare and those concerned with the production of optimum carcass and meat quality. The aim of this study was to reconcile both interests within the same stunning technique, namely head-to-back stunning.” A technique of head-to-back stunning produced unconsciousness and fibrillated the heart, resulting in “a more humane kill than conventional slaughtering.” It also improved the

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lamb and mutton exports and shipping to overseas markets meant that the meat industry and government invested heavily in research on meat quality and hygiene, refrigeration, and then, to satisfy the humane slaughter demands of their export markets, humane technologies. It’s no accident, therefore, that stunning research undertaken at a research institute in New Zealand was published in the official journal of the American Meat Science Association.

<sup>56</sup> C.E. Devine, K.V. Gilbert, A.E. Graffhuis, A. Tavener, H. Reed, P. Leigh, “The Effect of Electrical Stunning and Slaughter on the Electroencephalogram of Sheep and Calves,” *Meat Science*, vol. 17, no. 4 (1986): 268.

<sup>57</sup> M.H. Anil and J.L. McKinstry, “The Effectiveness of High Frequency Electrical Stunning in Pigs,” *Meat Science* 31 (1992): 481.

unreliable stunning-to-sticking intervals that had “large variations in the delay between stunning and sticking which could allow the pig to regain consciousness before it dies through exsanguinations.”

What made those stunning-to-sticking intervals especially important in British slaughterhouses were the Slaughter of Animals (Humane Conditions) Regulations of 1990, which, as the authors wrote,

require that no person shall stick any animal in a slaughterhouse within sight of any other animal. This requirement usually results in the stunning to stick interval being extended by the time it takes to convey the stunned animal out of sight and this time lapse may potentially allow full or partial recovery of consciousness before death occurs. Therefore a stunning method that also stops the heart and thus kills the animal has many advantages.<sup>58</sup>

This last study showed how animal advocacy surrounding the death of intensively farmed animals transformed itself into a problem of science and technology for the meat industry. In the first half of the twentieth century, the segregated slaughter principle (adopted in the UK but not in the United States) was part of a broader emphasis on how animals subjectively experienced their own deaths. The rapidly expanding field of animal science, with strong institutional ties to the meat industry itself, responded to new regulations with a science of animal death that focused less on fear, terror, and suffering than on stunning-to-sticking intervals, carcass composition, and efficient systems of production.

As this science of animal death developed, so too did an animal science focused on the lives of animals from birth until death: a science of animal life that similarly engaged ideas of fear, stress, and terror in uneasy ways. Equal parts meat science and the science of animal behavior, this science aimed to discover which industrial conditions, treatment, and environments create the most productive animals while satisfying humane regulations. Profitability in animal agriculture has come in the forms of speed and scale. Scale: producing more meat while minimizing costs (consolidated production processes, less energy input, smaller spaces, fewer workers, more saleable meat per

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<sup>58</sup> S.B. Wotton, M.H. Anil, P.E. Whittington, and J.L. McKinstry, “Pig Slaughtering Procedures: Head-to-Back Stunning,” *Meat Science* 32 (1992): 245-246.



animal). Speed: producing more meat in less time (shortened time from birth to death; efficient spatial networks; fast-paced assembly-line slaughter). Scale and speed put massive strains on animal bodies and minds, and creating the most profitable animal body in an age of intensifying production has meant managing animals for their entire lives, from gestation to death, and finding answers to questions such as: What is the most efficient way to impregnate a sow? What are the most efficient vaccinations, medications, and hormone-injections to maintain health and promote bodily growth? What is the most efficient way to move animals from a herding pen into a single-file stunning line? Animal science and meat industry researchers, trained by a scientific establishment that consistently denied or downplayed the subjective experience of animals, found it difficult to deal with some issues that seemed, on their face, to be emotional in nature, especially fear. It created a fundamental tension within the meat industry's developing science of animal life. Animals were not pure machines, but were not quite subjects of a life, either. Industry scientists resolved the problem with a single word and concept: "stress." It was, intentionally or not, a modern intervention into centuries-old debates about animal thinking, perceiving, and feeling. Researchers were thinking about making steaks, but they were talking to Descartes.

Early research on stressed animals demonstrated that a scientific framework of behavior, environment, and productivity presented challenges for thinking about actual animals, and suggested the value of "stress" as a conceptual workaround. When the American Meat Science Association published the first issue of *Meat Science* in January of 1977, founding editor R.A. Lawrie opened the new journal with an article in which he addressed the topic of stress during the transport of farm animals. "Variable degrees of physiological stress," he wrote: "fasting, fatigue, fear, fighting, exposure—arise in transporting animals to the point of slaughter." Lawrie used the word "fear," but he listed it as a physiological stress, rather than a psychological one, because its physiological manifestations could affect meat quality. Meat, he noted, could be damaged by "tension and tremor

due to excitability and fear.”<sup>59</sup> A year later, the conceptual slipperiness of “stress” was on display again in *Meat Science*. A researcher, having monitored the body temperature, glycolysis levels, and pH balance in the muscles of sheep slaughtered in groups of four found:

(a) the last two animals killed each day were more upset than the first two; (b) remaining animals became increasingly upset as animals were sequentially removed from the holding pens (as presumed in the covariance analyses) and (c) animals killed second were the least upset because animals killed first had less time to adjust to the conditions in the holding pen and those killed third and fourth were becoming increasingly upset by their isolation.<sup>60</sup>

This language suggested that sheep had mental lives, that they perceived their conditions (and were able to adjust to them), and that they were capable of being “upset” to varying degrees. In a behaviorist framework, the word “upset” would have been an inference about consciousness based on physiological data that were otherwise observable and quantifiable. “Stress” could bypass that corrupting inference while taking stock of the material existence of actual, living, breathing animals whose physiological stresses seemed rooted in psychological ones. The title of the article was: “Effects of Level of Feeding, Pre-Slaughter Stress and Method of Slaughter on Postmortem Glycolysis of Sheep Muscles.”

“Stress” became for to the meat industry what “suffering” was for animal advocates—a way of conceptualizing and articulating how animals negatively experience the world of intensive animal agriculture, an environment and mode of production that ethicist Bernard Rollin has described as a “systematic attempt to violate or work against animals’ nature” for the purposes of profit.<sup>61</sup> Since the intensification of the meat industry after World War II, and particularly since muckraking

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<sup>59</sup> R.A. Lawrie, “Meat: Current Developments and Future Status,” *Meat Science*, vol. 1, no. 1 (1977): 4.

<sup>60</sup> W.R. Shorthose, “Effects of Level of Feeding, Pre-Slaughter Stress and Method of Slaughter on Postmortem Glycolysis of Sheep Muscles,” *Meat Science* vol. 2, no. 3 (1978): 196.

<sup>61</sup> Bernard E. Rollin, *Farm Animal Welfare: Social, Bioethical, and Research Issues* (Ames, Iowa: Iowa State University Press, 1995), 6-7. Some industries have been more intensified than others. Pigs, veal calves, dairy cows, and chickens are now generally raised in confined, indoor, barren environments. Cows raised for beef are more likely to spend some of their life on a ranch.

investigations like Ruth Harrison's *Animal Machines* (1964) and Peter Singer's *Animal Liberation* (1975), animal advocates have sought to ease or eliminate the suffering of these intensively farmed animals—that is, give them as good a life as possible, mentally and physically, in a world that systemically violates their nature. Meanwhile, the meat industry has undertaken a similar goal with regard to stress. Its scientists have sought to lower the stress responses of intensively farmed animals in industrial environments that are as unnatural and noxious as they are efficient. As one researcher explained in an article entitled, “Chemical and Physiological Aspects of Pig Stunning in Relation to Meat Quality”: “an essential factor in stunning is that the amount of stress to the animal should be minimal so that adverse effects on the meat quality will be avoided.”<sup>62</sup> Understanding this vaguely defined concept of stress—its environmental causes (called “stressors” or “stress stimuli”), physiological indicators (hormone levels, body temperatures, pH balances, behavioral traits), and, in irregular and often ambiguous ways, its psychological and emotional underpinnings—has been of paramount importance to creating modern meat.

Since the 1980s, thousands of studies of animal stress that have appeared in the pages of *Meat Science*, the *Journal of Animal Science*, and similar journals, documenting the effect of psychological and physiological stressors on animal behavior and meat quality. Lamb, cows, calves, pigs, chickens—the meat industry and its related institutions and organizations have spent untold amounts of capital trying to understand different kinds of animal stress. In the process, it has implicitly devoted itself to understanding what makes animals afraid, anxious, and upset, and to understanding how those subjective feelings manifest themselves physiologically and behaviorally. The pig has received special attention for its nervous tendencies since researchers identified a gene that made certain pigs especially susceptible to stress. “Porcine stress syndrome” (PSS) resulted from

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<sup>62</sup> P.G. Van Der Wal, “Chemical And Physiological Aspects of Pig Stunning in Relation to Meat Quality—A Review,” *Meat Science* vol. 2, no. 1 (1978): 19.

selective breeding in the 1950s for lean pigs that would produce low-fat pork: the “other white meat,” as the pork industry would claim. But as with all single-trait breeding, there were unintended effects. PSS caused harmful behavior, such as tail biting and insomnia, in under-stimulating (boring) environments. In over-stimulating (frightening) environments, such as transport or pre-slaughter procedures, it could cause a hypermetabolic meltdown that often resulted in sudden death.<sup>63</sup> Fixing the problem of stressed pigs using environmental, medical, or breeding interventions has been a major area of investment and research in animal agricultural science.

Even if stress was a useful conceptual workaround for the industry, people from a range of academic disciplines, ideologies, and institutional affiliations have expressed unease about its value for understanding the actual lives of intensively farmed animals. In July 1983, the College of Agriculture and Environmental Sciences at the University of California at Davis hosted a symposium about animal stress, during which researchers from the fields of biology, immunology, animal behavior, and medicine came together to discuss what stress meant, how it could be measured, and how it related to the “well-being” of animals. Their talks had titles like “Determining Animal Well-Being,” “Stress in Animals,” and “Effects of Stress on Well-Being” and led to a volume of essays published two years later by the American Physiological Society called *Animal Stress* (1985). The editor of that volume, an influential animal scientist named Gary Moberg, argued that “if an animal is under stress, its well-being is threatened,” and that stress was a useful concept for measuring well-being. But he also worried that “researchers repeatedly fail to recognize that stress is essentially a syndrome with no discrete etiology, no consistent biological response, nor even a single effect on the individual. Because of these problems, it is tempting to suggest that the concept be abandoned altogether because it is scientifically unworkable.” Stanley Curtis, another important animal scientist, doubted the value of both concepts. “Well-being,” he argued, was not a very well-

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<sup>63</sup> “When Pigs Stress Out,” *New York Times*, October 7, 2003.

defined concept, and therefore it was unclear what “stress,” another ill-defined concept, was supposed to be indicating.<sup>64</sup>

Other scientists since the 1980s have made similar arguments about the value of stress for learning how to understand, manage, and improve animal lives. Some have used language like “feel” and “emotion” to critique stress. Marian Stamp Dawkins, a cognitive ethologist and professor of animal behavior at Oxford, wrote in *Animal Suffering* (1980): “Physiological measurements of suffering may one day give us a very good indication of the emotional states of animals. But at the moment, the complexity of the factors which give rise to different emotional states is a major limitation on their use in the assessment of welfare.”<sup>65</sup> H.O. Kunkel, professor of animal science and one-time Dean of the College of Agriculture at Texas A&M University, echoed those words. Stress was more “a concept than a biological reality,” according to Kunkel. “When one measures stress in an animal,” he wrote in *Human Issues in Animal Agriculture* (2000), “one is limited to measuring the effects of stress.” “What we do not know—and what needs to be learned if we are ever going to be able to answer certain questions,” he believed, “is how much, if any, an animal suffers (i.e., experiences an unpleasant emotional state such as fear, pain, frustration, or exhaustion) beyond some (as yet undescribed) threshold as the result of specific experiences of interest.”<sup>66</sup> Bernard Rollin, writing as a professor of medical and animal ethics, echoed some of these points. “Farm animal welfare research should not consist solely of the sorts of things traditionally done—

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<sup>64</sup> Gary Moberg, “Preface” and “Biological Response to Stress: Key Assessments of Animal Well-Being,” in Gary Moberg, Ed. *Animal Stress* (Bethesda, MD: American Physiological Society, 1985), v and 28. Stanley Curtis, another important animal scientist, doubted the value of both concepts. He wasn’t sure what was measuring what. “Well-being,” he argued, was not itself a particularly well-defined concept, and therefore it was unclear what “stress,” another ill-defined concept, was supposed to be indicating. Stanley Curtis, “What Constitutes Animal Well-Being,” in Gary Moberg, Ed. *Animal Stress* (Bethesda, MD: American Physiological Society, 1985), 2. Curtis used a dictionary definition of “well-being” as “the state of being happy, healthy, or prosperous.”

<sup>65</sup> Marian Stamp Dawkins, *Animal Suffering: The Science of Animal Welfare* (London: Chapman and Hall, 1980), 66.

<sup>66</sup> H.O. Kunkel, *Human Issues in Animal Agriculture* (College Station, TX: Texas A&M University Press, 2000), 213-215.

measuring cortisol, counting stereotypies...” he wrote in *Farm Animal Welfare* (1995). “I am not saying, of course that there is no value to cortisol measurement or similar activities; the key point is that, in welfare research, they must be seen as evidentially related to how animals feel and how social morality demands that they feel.”<sup>67</sup> Dawkins, Kunkel, and Rollins were all describing the persistence of the “black box” in studies of intensively farmed animals. Researchers were equipped to study inputs (environments and handling) and outputs in the form of physiological stress (pH, body temperature, cortisol, behavioral changes)—but animal minds and emotions remained elusive.

Despite concerns about its usefulness, stress has remained the meat industry’s main conceptual apparatus for dealing with problems of animal production and behavior that might be based in mental experiences and emotional feelings. As such, stress has also been an intervention by animal scientists and industry researchers into older debates about animal nature and capabilities, in which they have used modern methods of scientific inquiry to produce new forms of knowledge about animals. Stress is a strange apparatus, one that approaches a pig or cow as a subject of a life and an animal machine at the same time, taking one page from Descartes and another page from Regan. But it’s the main apparatus still. In 2010, for example, two poultry producers, Bell & Evan’s and Mary’s Chickens, launched plans to slaughter their chickens using carbon monoxide. The *New York Times* began its story on the plan by alluding, with echoes of Michael Pollan, to the many ways that producers now market animal products: “Shoppers in the supermarket today can buy chicken free of nearly everything but adjectives. It comes free-range, cage-free, antibiotic-free, raised on vegetarian feed, organic, even air chilled. Coming soon: stress-free?” According to the owner of Bell & Evans, Scott Sechler, “When you grab a chicken, turn it upside down and put it on the line, it’s stress, stress, stress. Our system is designed so that we put them to sleep without stress and we kill

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<sup>67</sup> Bernard E. Rollin, *Farm Animal Welfare: Social, Bioethical, and Research Issues* (Ames, Iowa: Iowa State University Press, 1995), 39-40.

them without stress.” The owners of Mary’s Chicken planned to label their product, “humanely slaughtered,” “humanely processed,” or “humanely handled.” An animal scientist who helped design the system told the *Times*, “Birds don’t like being hung upside down. They get really stressed out by that.”<sup>68</sup>

The animal scientist who helped design that system was named Temple Grandin. It’s no coincidence that she used the technical term “stress” and the subjective term “like” to describe how chickens experience slaughter. Since the mid-1970s, Grandin has studied animals, has imagined their lives and deaths, and has designed environments and systems for raising and slaughtering them. As the face of humane animal agriculture, her authority is acknowledged and invoked by the animal advocacy movement, by the meat industry, and by the governmental regulatory establishment. She has received awards from the American Meat Institute, the largest meat industry trade association, and the American Society of Animal Science, as well as from the Humane Society and the ASPCA.<sup>69</sup> To improve animal welfare and industrial productivity, she has measured her fair share of cortisol and pH, and she has assessed “stress” and “stressors.” At the same time, she has been has written and lectured extensively about their mental and emotional lives, speaking freely of suffering, fear, happiness, curiosity, and affection. A self-described pragmatic reformer, her design systems, especially a series of curved chutes for moving cattle, have treated animals as necessary raw resources and as subjects of a life at the same time. For Grandin, a well-designed cattle chute makes everyone happy—workers, industry executives, animal advocates, legislators, regulators, consumers, and even cows. The modern meat industry is a massive industrial, technological, and scientific enterprise with innumerable sites of influence, expertise, and authority. When it comes to humane handling and slaughter, though, the meat industry, the advocates who seek to reform it, and the

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<sup>68</sup> “New Way to Help Chickens Cross to Other Side,” *New York Times*, October 21, 2010.

<sup>69</sup> Temple Grandin’s Resume: <http://www.grandin.com/professional.resume.html> (accessed November 29, 2010)

government agents charged with regulating it have all relied on the authority, the expertise, and the symbolic presence of Temple Grandin.

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Temple Grandin's story is an unlikely one. She was diagnosed with autism in 1950, at the age of three, and was nearly institutionalized. Born in Boston, Massachusetts, she struggled socially in her early years. People seemed totally alien to her, and she found her home on farms, where her connection with animals helped her to better understand her own mental life as person with autism. In 1970, she earned a B.A. in Psychology from Franklin Pierce College and in 1975 an M.A. in Animal Science from Arizona State University. In 1989, she completed her PhD in Animal Science at the University of Illinois at Urbana-Champaign. (Her PhD research compared the behavior of intensively farmed pigs in enriched and impoverished environments.) By that time, she had already written a memoir about growing up with autism called *Emergence: Labeled Autistic* (1986).<sup>70</sup>

Grandin has been busy since then, writing several bestselling books about animals and autism; publishing extensively in scientific, technical, and trade periodicals; designing livestock handling and slaughter systems for agricultural facilities; consulting for businesses that want to better their practices, satisfy USDA inspections, and improve their corporate image; creating and implementing animal welfare audits for the USDA and for the American Meat Institute; testifying at Congressional hearings and counseling regulatory agencies; offering seminars and keynotes at both industry and animal welfare events; becoming public figure, named to the *TIME 100* list of most important persons in the world, and to *Beef Magazine's* "Beef Top 40" most influential people in beef production; and becoming the subject of an Emmy- and Golden Globe-winning HBO biopic,

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<sup>70</sup> Temple Grandin and Margaret M. Scariano, *Emergence: Labeled Autistic* (Novato, CA: Arena Press, 1986).



*Temple Grandin*, starring Claire Danes.<sup>71</sup>

Grandin has become the human face of modern meat, and like most “faces” of things, her position is a complicated one. On the one hand, she has been an important expert, authority, and innovator in the science and technology of intensive raising, handling, and slaughtering of animals. Each year, hundreds of millions of animals move through agricultural worlds partly designed by her, and her opinions, techniques, and technologies have had major influence on industry and its regulation. On the other hand, she has been an individual in whom many people invest a great deal of meaning, authority, projected ideologies, and hopes—industry CEOs, managers, and stockyard handlers; senators, members of congress, and regulatory technocrats; and people concerned about animal welfare, from the president of PETA to a shopper in Whole Foods looking for ground beef. Considering her dual position, as both a creator of animal knowledge and as a projection of other people’s animal knowledges, ethics, and priorities, Grandin’s vision of animal mental life is central to the threaded history of science, ideas, and advocacy that this chapter has traced. In fact, Grandin is where those threads meet.

Grandin has long claimed that, due to her autism, she thinks and feels the way animals do: that she has a “cow’s eye view” that allows her to see the world like animals do. Without language, she thinks in pictures, an important claim about human and animal minds. It was this aspect of Grandin that Americans encountered in a profile by Oliver Sacks, “An Anthropologist on Mars,” which appeared in the *New Yorker* in 1993 and was reprinted in his book of essays on neurological

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<sup>71</sup> Temple Grandin’s Resume: <http://www.grandin.com/professional.resume.html> (accessed November 29, 2010); Temple Grandin, *Thinking in Pictures: And Other Reports from My Life with Autism* (New York: Doubleday, 1995); Temple Grandin and Catherine Johnson, *Animals in Translation: Using the Mysteries of Autism to Decode Animal Behavior* (New York: Harcourt, 2005); Temple Grandin and Catherine Johnson, *Animals Make Us Human: Creating the Best Life for Animals* (Boston and New York: Houghton Mifflin Harcourt, 2009). Catherine Johnson, Grandin’s co-author, is a writer specializing in neuropsychiatry and a former trustee of the National Alliance of Autism Research. Grandin credits Johnson with not only helping structure her thoughts and narratives, which, she notes are non-verbal in nature, but she also credits Johnson with being a scientific and intellectual interlocutor.

disorders, *An Anthropologist on Mars: Seven Paradoxical Tales* (1995).<sup>72</sup> “If you’re a visual thinker, it’s easier to identify with animals,” she told Sacks. “If all your thought processes are in language, how could you imagine that cattle think? What if you think in pictures...”<sup>73</sup> Grandin’s self-reflection was one embedded in history. In the western intellectual tradition that I discussed in my introduction, language and reason divided humans and animals. Grandin certainly could think, and so she figured animals could think, too. How might the Great Chain of Being handle a person without language and a cow that thought in pictures? Was Grandin an animal machine? Was a cow the subject of a life?

Grandin’s “cow’s eye view” was also embedded in the related history of sentimental ideas about animal emotion. Humane reformers in the nineteenth century encouraged “fellow feeling.” People who lived by an ethic of kindness would be able to feel the suffering of their fellow animals. They would empathize and experience sympathy. In many ways, Grandin literalized that process of humane identification. In her popular book *Thinking in Pictures* (1995) she described a visit in 1978 to inspect a dip vat that cattle were too frightened to enter. “The first thing I did when I arrived at the feedlot,” she wrote, “was to put myself in the cattle’s heads and look out through their eyes.”<sup>74</sup> She described the process as one of transformation and embodiment, rather than a mere thought experiment. “When I put myself in a cow’s place, I really have to be that cow and not a person in a cow costume,” she wrote.

I use my visual thinking skills to simulate what an animal would see and hear in a given situation. I place myself inside its body and imagine what it experiences. It is the ultimate virtual reality system, but I also draw on the empathetic feelings of gentleness and kindness I

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<sup>72</sup> Oliver Sacks, “An Anthropologist on Mars,” *New Yorker*, December 27, 1993; *An Anthropologist on Mars: Seven Paradoxical Tales* (New York: Knopf, 1995). Sacks’ title came from something Grandin said to him about her ability to understand social interactions and complex human emotions. “Much of the time,” she said, “I feel like an anthropologist on Mars” (259).

<sup>73</sup> Ibid, 266.

<sup>74</sup> Grandin, *Thinking in Pictures*, 22.

have developed so that my simulation is more than a robotic computer model.<sup>75</sup>

Such a transformation might seem like magic, which accounts for much of her popular appeal and for some of her authority. It's why the *Evening Standard* of London chose to describe her as "an autistic academic with a bizarre talent."<sup>76</sup> It's why *Time* referred to her "unique window into the minds of animals."<sup>77</sup> It's why J. Patrick Boyle, president of the American Meat Institute, defended his industry before a Senate hearing in 2008 by pointing to audits done by Grandin, whose "autism provides her the unique ability to understand the world from an animal's perspective," and who "crawled through out chutes and alleys, designed and sat in our cattle holding pens, ridden out of trucks and seen the world and our plants as animals do."<sup>78</sup> But saying that Grandin's ideas about animals are rooted mainly in her unique abilities, unique windows, and bizarre talents misses other roots in historical ideas about human and animal natures: about animal thinking, reason, and language, and about human kindness, empathy, and fellow feeling for suffering animals.

This popular narrative also misses Grandin's place in the history of scientific ideas about animals—an evolving body of knowledge that has shaped and been shaped by her and others. In her writings, Grandin has outlined a broad career goal of pushing people in industry and science to get inside the "black box" of animal minds, and to create agricultural systems and environments based on what they find there. "What does an animal need to have a good life?" Grandin asked in the first line of her book, *Animals Makes Us Human*. "I don't mean a good life physically. We know a lot about what kind of food, water, exercise, and veterinary care animals need to grow and be healthy. I

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<sup>75</sup> Grandin, *Thinking in Pictures*, 143.

<sup>76</sup> "An autistic academic with a bizarre talent," *The Evening Standard* (London), June 8, 2006.

<sup>77</sup> Marc Hauser, "Temple Grandin," *Time: The 2010 Time 100*, available at: [http://www.time.com/time/specials/packages/article/0,28804,1984685\\_1984949\\_1985222,00.html](http://www.time.com/time/specials/packages/article/0,28804,1984685_1984949_1985222,00.html)

<sup>78</sup> "Meat Recall," *CQ Testimony*, February 28, 2008.

mean a good mental life. What does an animal need to be happy?”<sup>79</sup> Answering that question has meant drawing on her apparently unique powers of perception, yes. But it has also meant pushing the science of animal life in directions that take seriously mental processes and emotions.

That effort can be traced across Grandin’s massive body of written work, including research studies, writings for industry trade magazines, and popular writings for mainstream audiences. Much of her writing has appeared in *Meat Science*, in the *Journal of Animal Science*, and in other technical journals, where she has utilized the language of “stress” and the framework of behavior, environment, and productivity, while nudging animal science away from its traditional unease with mental life.<sup>80</sup> For example, in an article published two years after *Thinking in Pictures*, some of her language conformed to the expectations of her scientific and industrial audiences. She used the term “fear response”: an accepted description of animal behavior that posited “fear” as a stimulus-response system and not necessarily a mental state. She did, however, distinguish between “psychological stress” and “physiological stress.” And she pushed the discursive envelope by writing that “fear is a universal emotion in the animal kingdom” and that “animals with previous experiences with rough handling will remember it and may become more stressed when handled in the future.”<sup>81</sup>

Grandin writes regularly for industry trade magazines and has taken a similar approach there. Her writings have appeared in *Meat Industry*, *The Cattleman*, *Swine Practitioner*, *Western Horsemen*, *Beef Magazines*, and *Meat and Poultry*, where she remains contributing editor and frequent columnist. Her

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<sup>79</sup> Grandin, *Animals Make Us Human*, 1.

<sup>80</sup> Some example: Temple Grandin: “Observations of Cattle Behavior Applied to the Design of Cattle Handling Facilities,” *Applied Animal Ethology* 6 (1980): 19-31; “Bruises on Southwestern Feedlot Cattle,” *Journal of Animal Science* 53 (1981): supp 1, p. 213; “Pig Behavior Studies Applied to Slaughter Plant Design,” *Applied Animal Ethology* 9 (1982): 141-151; “Reduce Stress of Handling to Improve Productivity of Livestock,” *Veterinary Medicine* 79 (1984): 827-831; “Minimizing Stress in Pig Handling,” *Lab Animal* vol. 15, no. 3 (1986): 15-20.

<sup>81</sup> Temple Grandin, “Assessment of Stress in Handling and Transport,” *Journal of Animal Science* 75 (1997): 249-257.

columns, written in a colloquial style with recommendations for humane handling, have included “Head’em Up Move’em Out” (1976); “The 10 Commandments of Chute Design” (1988); “Quiet Plants = Calm Cattle” (1990); “Handling Crazy Pigs” (1992); “Bovines with Attitudes” (1993); “In Need of an Attitude Adjustment” (1994); “Avoid a Bruised Wallet” (1995); “Handling Hyper Hogs” (1995); “Acclimate Don’t Agitate” (1990); “Ten Tips for Easy Herding” (February, 2003); “The Power of Behavior” (2004).<sup>82</sup> These articles focused on animal welfare from the perspective of industrial efficiency, productivity, and profitability. Hence the pun on “bruised wallet.” But they also urged industry personnel to think of animals as more than just machines.

Grandin has outlined her ideas about animal mental life most clearly in her popular books for mainstream audiences, free from the semantic and conceptual restrictions of science and industry. Reading Grandin’s three trade-press books, *Thinking in Pictures and Other Reports from My Life With Autism* (1995); *Animals in Translation: Using the Mysteries of Autism to Decode Animal Behavior* (2005); and *Animals Make Us Human: Creating the Best Life for Animals* (2009), means immersing yourself in a way of thinking about animals that challenges dominant scientific paradigms. Grandin’s animals think, perceive, remember, and experience a broad range of emotions, such as happiness, sadness, fear, anxiety, and affection. Animal welfare, to Grandin, has meant taking stock of those subjective experiences.

In *Animals Make Us Human*, she laid out her most specific answer to the question about what it takes for animals to be happy. She argued for using knowledge about animal emotions to create environments in which animals will be happy and healthy. “I believe that the best way to create good living conditions for any animal,” she wrote, “is to base animal welfare programs on the core

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<sup>82</sup> Examples: Temple Grandin: “Head’em Up Move’em Out,” *Meat Industry* (May 1976); “The 10 Commandments of Chute Design,” *Meat and Poultry* (January 1988); “Quiet Plants = Calm Cattle” *Meat and Poultry* (July 1990); “Handling Crazy Pigs,” *Meat and Poultry* (May 1992); “Bovines with Attitudes,” *Beef*, vol. 30, no. 2 (1993); “In Need of an Attitude Adjustment,” *Beef* (November 1994); “Avoid a Bruised Wallet,” *Meat and Poultry*, (August 1995); “Handling Hyper Hogs,” *Meat and Poultry* (June 1995); “Acclimate Don’t Agitate,” *Beef* (June 1990); “Ten Tips for Easy Herding,” *Beef* (February 2003); “The Power of Behavior,” *Beef* (August 2004).

emotion systems in the brain. My theory is that the environment animals live in should activate their positive emotions as much as possible, and not activate their negative emotions any more than necessary.”<sup>83</sup> What would it mean in terms of animal suffering if animal raising and slaughtering systems were designed to combat fear and misery in life, rather than just pain at the moment of death? “A lot of effort has been put into creating humane slaughter systems so that the animal doesn’t suffer,” she wrote in *Animals in Translation*:

That part was easy, relatively speaking. If all you had to do to eliminate suffering was to make sure the animal died instantly, today almost all of our slaughterhouses would have to be considered humane. But eliminating pain isn’t enough. We have to think about animals’ emotional lives, not just their physical lives... The single worst thing you can do to an animal emotionally is to make it feel afraid. Fear is so bad for animals I think it’s worse than pain.<sup>84</sup>

In *Animals in Translation* and *Animals Make Us Human*, Grandin explained in often minute detail how some environments activate or avoid activating what she called the “blue-ribbon emotions”:

SEEKING, (a “master emotion” that drives animals to explore, feel curious, excited, happy, etc.); RAGE; FEAR; PANIC; LUST; CARE; and PLAY. “Taken together,” she argued, “these seven emotions—especially the first four—explain why some environments are good for animals (and people) and others are bad.”<sup>85</sup> Facilities for raising, transporting, and slaughtering animals, she argued, should be designed around those emotions.

By emphasizing animal emotion in this way Grandin inserted herself into larger debates about how scientists, industry personnel, animal advocates, and policy-makers imagine and regulate animal pain and suffering. Developing those ideas meant more than imagining herself as a cow. It meant a decades-long engagement with dominant and emergent scientific knowledges about animals. “Science is just beginning to prove what little old ladies in tennis shoes have always known,” she

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<sup>83</sup> Grandin, *Animals Make Us Human*, 3.

<sup>84</sup> Grandin, *Animals in Translation*, 189.

<sup>85</sup> Grandin, *Animals Make Us Human*, 6-9.

wrote in *Thinking in Pictures*: “little Fifi really does think.”<sup>86</sup> Nearly ten years later, in *Animals in Translation*, she used the same line to comment on the evolution of science on the question of animal minds and feelings. “Animal researchers are finally beginning to catch up to the little old ladies in tennis shoes who say Fifi the poodle can think. But it’s still a battle.”<sup>87</sup> Embedded in this amusing remark was a quite serious comment on the historical failure of scientists and researchers to study and produce knowledge about what seemed an obvious fact of animal life to her, to Darwin, and to many pet owners.

Behaviorism loomed large in this history and in her personal experience. As a young person, Grandin knew she wanted to study animals when she got to college, but wasn’t quite prepared for how scientists were thinking about animals at the time. In *Animals in Translation*, she wrote of behaviorism being so academically influential as to be nearly hegemonic at her institutions of higher learning. “That was in the 1960s, and the whole field of psychology was B.F. Skinner and behaviorism,” she wrote, thinking of her college days. “Dr. Skinner was so famous that just about every college kid in the country had a copy of *Beyond Freedom and Dignity*.” She sought perspectives on animals other than the ones she was getting from the psychology department, and enrolled in several animal ethology courses. “It was a good thing I did,” she wrote, as she was soon to encounter a similar intellectual climate in graduate school, where she redirected her studies toward animal science: “Arizona State was a hotbed of behaviorism. *Everything* was behaviorism.”<sup>88</sup> Grandin emphasized this point to Oliver Sacks. Many animal scientists and psychologists during this period had trouble thinking about animal minds and emotions because “Skinner wouldn’t allow them,” she said. Sacks and Grandin discussed behaviorism, leaving Sacks to observe:

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<sup>86</sup> Grandin, *Thinking in Pictures*, 164.

<sup>87</sup> Grandin, *Animals in Translation*, 241.

<sup>88</sup> Grandin, *Animals in Translation*, 9-16; Grandin’s emphasis.

The Skinner era, Temple concluded, was one that denied feelings to animals and rationalized regarding them as automata...it was an era of exceptional cruelty, both in animal experimentation and in the management of farms and slaughterhouses. She had read somewhere that behaviorism was an uncaring science, and this was exactly how she herself felt about it. Her own aspiration was to bring vivid sense of animals' feelings back into husbandry.<sup>89</sup>

"Behaviorism was the law," Grandin recalled of her formative years, faulting it for broad intellectual restrictions on animal-related research. "You weren't supposed to speculate about what was inside a person's or an animal's head because you couldn't measure all the stuff inside the *black box*—intelligence, emotions, motives. The black box was off limits; you couldn't talk about it. You could measure only behavior, therefore you could study only behavior." Moreover, she found that "some animal behaviorists took this idea to the extreme by teaching that animals didn't even *have* emotions or intelligence. Animals only had behavior, which was *shaped* by rewards, punishments, and positive and negative reinforcements from the environment." Animals could not be subjects of a life according to the methodological and conceptual rules that Grandin encountered in her training. They were, as she put it, "stimulus-response machines," an expression reminiscent of Descartes'. "It's probably hard for people to imagine the power this idea had back then," Grandin wrote, looking back. "It was almost a religion."<sup>90</sup>

To do the work she wanted to do in animal agriculture, Grandin needed to engage alternative and emergent scientific trends, an impulse she has maintained throughout her career. She entered college in the mid-to-late-1960s, and, despite her claims about the hegemonic status of behaviorism, changing were underway in the sciences. Most important was the paradigm shift in psychology that came to be known as the "cognitive revolution." It began in the mid-1950s and attracted linguists, anthropologists, and psychologists who were looking for ways inside the "black

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<sup>89</sup> Sacks, *An Anthropologist on Mars*, 267-268.

<sup>90</sup> Grandin, *Thinking in Pictures*, 9-10.



box” to understand things like language and consciousness.<sup>91</sup> Behaviorist principles would remain important (and are still used), but cognitive frameworks, based on a growing body of scientific knowledge about the brain, became dominant.

The study of animals benefited from the cognitive revolution, as interdisciplinary cognitive approaches merged with animal ethology to create a new discipline called “cognitive ethology.” Donald Griffin, the zoologist who discovered and named “echolocation” (the navigation system of bats), founded the field after he published *The Question of Animal Awareness* in 1976.<sup>92</sup> Griffin was outspoken about difficulties scientists faced when trying to study the subjective experience of animals. “If one suggests that an animal thinks about what it is doing,” he wrote in *Animal Thinking* (1984), “one is told that this is a childish sort of animism, comparable to naming boats or automobiles and thereby endowing them with personalities.”<sup>93</sup> Although the cognitive revolution had helped many students and academics to move beyond what Griffin called the “negative dogmatism of the strict behaviorists,” he observed while writing *Animal Thinking* that “students of animal behavior are still severely constrained by a guilty feeling that it is unscientific to study subjective feelings and conscious thoughts.” Griffin thought that the study of animal mental life was the “final chapter of the Darwinian revolution.”<sup>94</sup> But he encountered entrenched resistance from many in his profession. One colleague described *Animal Thinking* as “The *Satanic Verses* of Animal Behavior.”<sup>95</sup> When Griffin died in 2003, the resistance to his work, then and now, was highlighted

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<sup>91</sup> See Bernard J. Baars, *The Cognitive Revolution in Psychology* (New York: Guilford Press, 1986) and Howard E. Gardner, *The Mind's New Science* (New York: Basic Books, 1985).

<sup>92</sup> Donald R. Griffin, *The Question of Animal Awareness: Evolutionary Continuity of Mental Experience* (New York: Rockefeller University Press, 1976).

<sup>93</sup> Donald R. Griffin, *Animal Thinking* (Cambridge, MA: Harvard University Press, 1984), viii, 4.

<sup>94</sup> Donald R. Griffin, *Animal Minds: Beyond Cognition to Consciousness* (1992; Chicago: University of Chicago Press, 2001), 285.

<sup>95</sup> *Ibid.*, x.

by the *New York Times* in his obituary, which described how he “broke a scientific taboo by suggesting that animals might have the capacity to think and reason, and that scientists should study these mental processes.” The *Times* also noted the “numerous and vocal critics of the growing field of cognitive ethology” and pointed out that “scientists complain the field is too dependent on anecdote, highly subjective and anthropomorphic, more akin to the way a dog owner envisions his pet’s day than the way a scientist typically approaches the study of animal behavior.”<sup>96</sup> Those words echoed exactly the sentiments that pushed Darwin’s study of animal emotions to the margins of science, that influenced the evolution of science and technology in animal agriculture, and that Grandin encountered in her studies.

When Griffin broke the “scientific taboo” of talking about the subjective experience of animals, he paved the way for other scientists, including Grandin, to take the topic seriously. Marian Stamp Dawkins, one of the most important figures in the field that Griffin helped create, spoke of Griffin’s influence to the *Times*. “He started a revolution in the way we see animals,” she said. “People have been saying we shouldn’t study animal minds or animal consciousness but only things we can observe. He said this is a legitimate question. He really opened the door.”<sup>97</sup> Dawkins, author of *Animal Suffering: The Science of Animal Welfare* (1980) and *Through Our Eyes Only?: The Search for Animal Consciousness* (1993), which she dedicated to Griffin, has also been an important figure in establishing the scientific methodologies of cognitive ethology. Dawkins argued in *Animal Suffering* that the developing field was not a reversion to “a pre-behaviouristic nineteenth-century view of animals, when Darwin, Romanes, and others had no qualms about discussing such states as jealousy, anger and sympathy in all sorts of animals including insects.” Rather, she thought, cognitive ethology could employ “rigorous” methods to understand something like “suffering” scientifically by looking

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<sup>96</sup> “Donald R. Griffin, 88, Dies; Argued Animals Can Think,” *New York Times*, November 14, 2003.

<sup>97</sup> Ibid.

at a variety of factors, which alone did not necessarily give a sense of mental state, but that together, might: physical health, productivity, comparison to wild counterparts, physiological measures, behavioral measures, animal choice or preference, and anthropomorphic extrapolation.<sup>98</sup> If humane reformers had taken animal mental life for granted and scientists under behaviorist influence had ignored it, then cognitive ethology offered tools to study it.

Grandin borrowed from the cognitive turn in animal ethology. In *Animals in Translation* she cited Griffin's *Animal Minds*; Dawkins' *Through Our Eyes Only?*; and Marc Bekoff's *The Cognitive Animal*.<sup>99</sup> She also cited Griffin, Dawkins, and Bekoff in a 2002 article for *Evolution and Cognition*, called "Do Animals and People with Autism Have True Consciousness?"<sup>100</sup> In both *Thinking in Pictures* and *Animals in Translation*, she used Dawkins to explain what it meant to "think." Referring to Dawkins as "one of the few specialists who studies thinking in animals," she explained Dawkins' rule of thumb that determining "whether or not the animal is really thinking requires testing under novel conditions." Many of Dawkins' studies, Grandin reported, "indicate that animals can think and are capable of using previously learned information to solve problems presented under novel conditions."<sup>101</sup> Grandin said the same in *Animals in Translation*: "True cognition, Dr. Dawkins says, happens when an animal *solves a problem under novel conditions*."<sup>102</sup> In addition to borrowing concepts like these, Grandin knowledge of animal behavior has been informed by the observations of ethologists. She herself is a sort of ethologist of farm animal behavior.

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<sup>98</sup> Marian Stamp Dawkins, *Animal Suffering: The Science of Animal Welfare* (London: Chapman and Hall, 1980), 14; and *Through Our Eyes Only?: The Search for Animal Consciousness* (Oxford: W.H. Freeman, 1993).

<sup>99</sup> Grandin, *Animals in Translation*, 341. Aubrey Manning and Marian Stamp Dawkins, *An Introduction to Animals Behaviour* (New York: Oxford University Press, 1998); Marc Bekoff, Colin Allen, and Gordon M. Burghardt, *The Cognitive Animal: Empirical and Theoretical Perspectives on Animal Cognition* (Cambridge, MA: MIT Press, 2002).

<sup>100</sup> Temple Grandin, "Do Animals and People with Autism Have True Consciousness?" *Evolution and Cognition* 8 (2002): 241-248.

<sup>101</sup> Grandin, *Thinking in Pictures*, 158-159.

<sup>102</sup> Grandin, *Animals in Translation*, 243.

Grandin has also borrowed extensively from another field of research that developed out of the cognitive revolution: the neuroscience of emotion, also known as affective neuroscience. Affective neuroscience emerged in the early 1990s as a way of studying personality, mood, emotion, feeling, and other aspects of the human “black box” typically avoided by cognitive neuroscience, which has tended to focus on memory, attention, learning and other ostensibly non-emotional, cognitive processes.<sup>103</sup> Affective neuroscience was still in development while Grandin was writing *Thinking in Pictures*, but already she saw in it the potential to ask and answer questions about animal consciousness and emotions. “The best hard scientific evidence that animals have emotions,” she wrote, “may come from the study of brain anatomy and neurophysiology.”<sup>104</sup> Grandin remembered auditing a human brain anatomy class at the University of Illinois Medical School when she was pursuing her PhD in Animal Science. “When the brain was sliced down the middle,” she remembers, “I was astounded to learn that the limbic system, which is the part of the brain associated with emotion, looked almost exactly like the limbic system in a pig’s brain.”<sup>105</sup> Humans and animals, she began to learn, had very similar emotional brain centers, but differently developed cortexes, which governs cognitive processing. She reasoned in *Thinking in Pictures* that “the most basic emotions in people and animals have similar neurological mechanisms and that the difference between human and animal emotion is the complexity of emotional expression.”<sup>106</sup>

Grandin’s citations in *Thinking in Pictures* revealed an engagement with the discipline’s growing literature. She cited an article from Joseph LeDoux, a neuroscientist at NYU who would,

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<sup>103</sup> Antonio Damasio, *Descartes’ Error: Emotion, Reason, and the Human Brain* (1994; New York: Penguin, 2005), ix-xiv; Jaak Panksepp, *Affective Neuroscience: The Foundations of Human and Animal Emotions* (New York: Oxford University Press, 1998), vii-ix.

<sup>104</sup> Grandin, *Thinking in Pictures*, 169.

<sup>105</sup> *Ibid*, 169.

<sup>106</sup> *Ibid*, 171.

that same year, publish his influential book, *The Emotional Brain* (1996).<sup>107</sup> She also drew on the work of USC neuroscientist Antonio Damasio, whose book, *Descartes' Error* (1994), was a watershed in the development of affective neuroscience. Damasio's writings confirm her own belief, seeded upon seeing that human brain in anatomy class, about the similarities between and shared functions of human and animal limbic systems.<sup>108</sup> Damasio would appear again in the footnotes of *Animals in Translation* and *Animals Make Us Human*, as would Joseph LeDoux.

Grandin would be most influenced from the work of Jaak Panksepp, whose textbook, *Affective Neuroscience: The Foundation of Human and Animal Emotions* (1998), became one of her main tools with which she made claims about the neurological basis for understanding animal mental life in *Animals in Translation* and *Animals Make Us Human*. In other words, Panksepp provided Grandin a conceptual apparatus with which to make recommendations about how to “base animal welfare programs on the core emotion systems in the brain.”<sup>109</sup> Grandin and Panksepp made for a good intellectual partnership, in part because they shared views about the effect of behaviorism on the ability of scientists to account for animal emotions and minds. Panksepp explained in *Affective Neuroscience* that his work was meant to contribute to the “metamorphosis” by which cognitive approaches had replaced behaviorist ones, a metamorphosis that had not fully “come to pass in animal research.” Like Grandin, Panksepp argued that behaviorist approaches had maintained a persistent hold over animal research. “Most investigators interested in the brain mechanisms of

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<sup>107</sup> Joseph E. LeDoux, *The Emotional Brain: The Mysterious Underpinnings of Emotional Life* (New York: Simon and Schuster, 1996). Grandin cites one of his articles: “Emotion, Memory and the Brain,” *Scientific American* (June 1994): 50-57.

<sup>108</sup> In *Animals Make Us Human*, Grandin writes the following about Damasio: “The work of Dr. Damasio shows how the emotional system works. His work shows how the emotions are located in the subcortical parts of the brain. From these studies, I conclude that the basic emotions in humans and other mammals are similar, because the subcortical regions of the brain are similar. I have always told my students that to understand behavior, you have to relate the observable behavior back to brain function. Emotional complexity will increase as the size of the neocortex is increased, but the basic core emotional system will remain the same” (309 at n23).

<sup>109</sup> Grandin, *Animals in Translation*, 3.

animal behavior remain strongly committed to behaviorist traditions,” he wrote, “which, on the basis of first principles, reject the possibility that inner psychological states help control animal behaviors.” Affective neuroscience could therefore be a tool for undoing the lingering effects of behaviorism on how scientists view and study animals. In a move that likely amused Grandin, Panksepp used a quotation from B.F. Skinner as an ironic epigraph to chapter 1: “The ‘emotions’ are excellent examples of the fictional causes to which we commonly attribute behavior.—B.F. Skinner, *Science and Human Behavior* (1953).”<sup>110</sup>

Panksepp and Grandin recounted very similar histories about how scientific ideas about animal mental life developed in the second half of the twentieth century—a history in which they have both played key roles. Grandin began her academic life with a hunch that animals could think thoughts and feel emotions, a hunch based in part on how she imagined the structure of her own mind and emotions. For decades, she found resistance to those ideas, embodied in the methodological and conceptual restrictions of behaviorism. Over several decades, she drew on diverse bodies of scientific knowledge, and on the affinities between her autistic subjectivity and that of animals, to get access to the darkest of black boxes—animal mental life, which remained difficult to access even as the cognitive revolution opened up the study of the human mind and brain.

Grandin’s intellectual history is one of evolving scientific knowledge shaping and being shaped by the writings, ideas, and physical designs of a single person whose designs, ideas, and writings have been imbued by the public with a great deal of scientific, ethical, economic, practical, and personal meaning. She has produced knowledge and technologies widely used. She has consulted for industry, for humane groups, and for the government. In those capacities, she has made her vision of animal life manifest in the material and regulatory world of animal agriculture to the extent that any one person can. One way to think about Grandin’s material influence in its ideal

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<sup>110</sup> Panksepp, *Affective Neuroscience*, 9-11.

form is to imagine a row of American cattle walking calmly in a steady stream toward their deaths through curvilinear chutes that she designed, chutes that did not exist before she made them, chutes that are now standard across the United States. They seem happy, the cows.

If part of Grandin's influence has been material, then another part (skeptics might argue the larger part) has been political and symbolic. She is the face of humane animal agriculture, a world of many competing interests. Her name carries weight and many groups are quick to wield it, as when the American Meat Institute wrapped itself in her "unique abilities" when facing its U.S. Senate hearing in 2008. A good example of her political and symbolic influence is the case of AgriProcessors, Inc., a slaughterhouse in Iowa that specialized in kosher slaughtering. In 2004, PETA filmed undercover footage that showed cows walking with their throats slit, a violation of federal law. AgriProcessors paid Grandin as a consultant to audit their facility, and after her visit, she made recommendations but decided their procedures were humane. In 2008, PETA released a second video that showed workers slitting the throats of cows twice (federal and kosher law both require a single cut) and using an illegal sawing technique known as "gauging." They showed the footage to Grandin, who said that what she saw was inhumane. PETA cited her evaluation to reporters, in press releases, and to the USDA. In a letter to the *New York Times*, Menachem Genack, the Rabbinic Administrator and CEO of Orthodox Union Kosher, the oldest and leading kosher certification organization in the United States, defended his organization from any accusations of complicity by noting that they had been "responsible for calling in Temple Grandin" in 2004. In response to the USDA investigation, media attention, and bubbling concerns over ethno-religious controversy, a group of prominent Jewish American Congress members wrote a letter to the president and director of AgriProcessors, Inc. to express their concern about animal welfare at the slaughterhouse. They noted that Grandin, "a well-respected expert in the fields of animal rights and humane slaughtering practices," had decided to "rescind her earlier support of the slaughtering

practices employed by the company and recommend the permanent installation of cameras that would be independently monitored.”<sup>111</sup> This was a case of many different interests pushing against each other, and all of them, at one time or another, wielding the authority of Grandin’s name. In that sense it was a typical case of Grandin’s political and symbolic influence, which, when it comes to putting her ideas about animal nature, emotion, and suffering into the world, is no less real than her material influence.

One way to think about Grandin’s influence as the face of humane meat, in its ideal form, is to imagine that same row of American cattle walking calmly in a steady stream toward their deaths through curvilinear chutes. Now imagine those chutes lined with people. A humane reformer sees animals free from pain, suffering, and fear. An industry executive sees profitable bodies in an efficient system of production. An animal scientist sees a technological system that effectively integrates animal behavior, environment, and productivity. A legislator sees the successful outcome of hearings, testimony, and policy-making. A shopper in Whole Foods sees a living animal becoming a product that will be ethical to buy. They seem happy, the people.

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Can cows be happy? The history of that question is made up of several entangled histories with deep roots. In terms of those roots, there is the very long history of ideas about animals and their capabilities that is likely as old as the human species itself and that found written form in the works of philosophers, scientists, and theologians over many centuries. There is the history of the animal protective movement, which shaped ideas about human and animal natures, about cruelty and kindness, and about suffering and sentience into a persuasive appeal for social, ethical, and legal change. And there is the economic, technological, and social history of American meat production,

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<sup>111</sup> “Kosher Plant is Accused of Inhumane Slaughter,” *New York Times*, September 5, 2008; Menachem Genack, letter to the editor, “What Happened at the Meatpacking Plant,” *New York Times*, August 13, 2008; “Rep. Ackerman, Other Congress Members Send Letter to Kosher Slaughterhouse Expressing Deep Concern Over Raid,” *U.S. Fed News*, September 23, 2008.



which transformed over time from agrarian husbandry into an industry that slaughters 9 billion animals a year. This chapter has traced those histories from the early twentieth century till the early twenty-first century: the unfolding history of American law, ethics, advocacy, and regulation with respect to animal agriculture; the history of how modern scientists have produced new and evolving forms of knowledge about humans and animals; and the history of a meat industry that has grown in scale, intensified its modes of production, and transformed itself in the context of scientific knowledge and humane regulation. The story of Temple Grandin tells the history of a single individual becoming a material, intellectual, political, and symbolic nexus for these larger histories about animals in science, industry, and law. What these histories share is a serious reckoning with what it means to be an animal, what it means to suffer, what it means to feel, and what it means to think. Each history involves persons and institutions trying to figure out just what to make of the 9 billion animals living in the industrial, agricultural world. Are they animal machines? Are they subjects of a life? Are they something in between? These histories of science, industry, and law matter every time a person walks down a grocery aisle, imagining animals and how they lived before dying to feed us, asking Temple Grandin for guidance, wanting to be kind and sympathetic and fellow-feeling, wishing to living in a world where cows can be happy.

## CHAPTER FOUR

### ANIMALS WERE HARMED: CENSORSHIP, SPEECH, AND ANIMAL SUFFERING ON FILM FROM CLASSICAL HOLLYWOOD TO THE CRUSH ACT

*“No animals were harmed in the making of this motion picture.”*  
... *The American Humane Association*

Animals and film have a long history together. From Eadweard Muybridge’s proto-cinematic studies in animal locomotion in the late nineteenth century, to Thomas Edison’s demonstration of electrical power and filmic representation in *Electrocuting an Elephant* (1903), to the chariot race in *Ben-Hur* (1959), to Hitchcock’s *The Birds* (1963), to the horse’s head in *The Godfather* (1972), to Uggie the dog’s critically acclaimed performance in *The Artist* (2011)—people have come to know animals through film, and people have also come to know film through the animals that populate the screen.<sup>1</sup>

Film is also how people have come to know animal suffering. Film has been primary medium through which visions of animal suffering and death have reached the American public over the course of the twentieth century. While pet ownership grew dramatically in this century, other animals disappeared from the most people’s daily lives. Electric cars and automobiles replaced the carriage horses that had aroused sympathy in the nineteenth century. Cows, pigs, chickens and other food animals became invisible except in the form of meat. America became less rural and more metropolitan. Fewer and fewer people would know daily life with animals that were domesticated but not house pets. They would perhaps shoot a deer through a sighted rifle, but they would be less likely to slaughter an animal with their hands. Witnessing animal suffering and death would become an affair mediated by film and video recordings. The law, technology, production, and aesthetics of film would therefore be central to the construction of ideas about animal suffering and human cruelty in modern America.

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<sup>1</sup> Jonathan Burt, *Animals in Film* (London: Reaktion, 2002), 10, 15.

Hence a line of text that will be familiar to any moviegoer today: “No animals were harmed in the making of this motion picture.” That line has, for more than a quarter-century, assured moviegoers that the film in question was monitored and approved by the American Humane Association’s Film and Television Unit. The credit certifies that humane officers were present on-set, that animals were treated humanely during the filming, and that any apparent scenes of suffering or cruelty involved no actual suffering or cruelty. Films have not always carried the credit, “No animals were harmed,” and the history of animals on screen is a history of harming and not harming animals on screen—of debates about what is cruel; about when you know an animal is suffering; about whether the suffering of an animal can have expressive value when captured and disseminated by an expressive medium; about the debasing effects that depictions of animal cruelty might have on individuals and communities; about whether the priorities of commerce outweigh the priorities of ethical concern; and about regulations and laws controlling what could be shown on screen, as those screens moved from studio-owned theaters to independent and art-house theaters to home television sets to computer monitors filled with moving images from the Internet.

For a century, animal advocates have sought to protect animals used in the production of films. And when animals have been harmed in films, advocates have sought to prevent those films (or portions of them) from being shown, hoping to dissuade filmmakers and production companies from harming animals in the future, and also hoping to protect Americans from human cruelty and animal suffering that they considered socially damaging. Animal advocates became involved in developing tools of censorship that changed how films were made and shown in the twentieth- and twenty-first-century United States, from the formation of state censor boards in the early twentieth century, to the embracing of self-censorship by a motion picture industry wary of state intervention,

to the enactment more recently of a federal law banning depictions of animal cruelty.<sup>2</sup> The history of film in America—from classical Hollywood, to the rise of independents and foreign film, to VHS, to the Internet—is partly a history of law, censorship, and regulation. Animal advocates played a role in that history.<sup>3</sup>

Their purpose was to protect animals from suffering, but like their campaigns for anti-cruelty statutes, cockfighting criminalization, and humane reform of the meat industry, advocates were also concerned with transforming individual behavior, social norms, and American culture. Animal advocates have always believed that cruelty to animals was personally and socially damaging, but the sentimental and intellectual traditions that informed that belief predated the modernization of film entertainment, communications, and mass media. In adapting to this twentieth-century world of moving images, advocates argued that depictions of animal cruelty were threatening and that consuming those images was debasing. As Francis Rowley, the President of the MSPCA, and other humane leaders reported in 1925: “we are convinced that cruelty to animals in film work is morally wrong and without justification, and that cruel pictures exert a demoralizing and debasing influence upon human beings.”<sup>4</sup> This was a variation on an older claim that witnessing a cockfight or seeing an animal slaughtered were brutalizing experiences: bad for the soul, and inimical to the personal and

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<sup>2</sup> Francis G. Couvares, ed. *Movie Censorship and American Culture* (Washington, DC: Smithsonian, 1996), 10. The censorship apparatus varied with time and entailed a multiplicity of practices: governmental “prior restraint” of expression; punishment of obscenity after its dissemination; self-regulation by content producers, whether by writers, directors, producers, or production companies; and pressure by independent reform groups and institutions.

<sup>3</sup> It is worth noting here that “censorship” is complicated business involving many competing interests, in many different contexts over time. Many interests that stand to benefit from censorship advance equality, justice, and human rights, and therefore should give us pause, even though histories of censorship, including film censorship, tend to present censorship as conservative and oppressive on its face. In terms of racial and gender equality, for example, Catharine MacKinnon argued, “The law of equality and the law of freedom of speech are on a collision course in this country” (MacKinnon 71). In the context of film censorship, Francis Couvares described as “good censorship” that which sought to protect marginalized groups, such as women or African Americans. Animal advocates might be considered as part of this tradition. See Catharine MacKinnon, *Only Words* (Cambridge, MA: Harvard University Press, 1993); Steven J. Heyman, *Free Speech and Human Dignity* (New Haven: Yale University Press, 2008); Francis Couvares, “The Good Censor,” *Yale Journal of Criticism*, vol. 7, no. 2 (1994): 233-51; Ellen C. Scott, “Black ‘Censor,’ White Liberties: Civil Rights and Illinois’s 1917 Film Law,” *American Quarterly*, vol. 64, no. 2 (2012): 219-247.

<sup>4</sup> “Cruelties in the Film Industry,” *Our Dumb Animals*, vol. 58, no. 3 (August 1925), 36.

social process of cultivating kindness. Advocates reframed that argument in the context of new and evolving technologies, media, and cultural formations in modern America, and they found natural partners in reformers who were broadly concerned that film entertainment was socially debasing. Together, they considered censorship a force for social good that would improve the world through morally uplifting images, not violent, sexual, blasphemous, or cruel ones. That vision and their ability to enforce it would be challenged in the course of the twentieth century by changes in law that afforded films the constitutional protection of free speech; by transformations in the production and distribution of film that saw the rise of foreign, independent, and avant-garde cinemas; and by technological advances in film, communication, and media that changed the way people produced and disseminated moving images. This chapter tells that history, a history in which animals were harmed.

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Animal advocates played a key role in campaigning for the system of industry self-regulation embodied by the Production Code, a set of rules about content that governed Hollywood filmmaking from its codification in 1934 until it was abandoned in the late 1960s. Groups such as the American Humane Association and state chapters of the Society for the Prevention of Cruelty to Animals joined with other moral reform groups in demanding that either the state or the industry eliminate immoral content, citing its harmful effect on American society. From the 1910s (when film censorship was handled by state and municipal censor boards), through the 1920s and 1930s (when self-regulatory systems were developed and implemented within the motion picture industry), until 1940 (when the Motion Picture Producers and Distributors of America empowered the American Humane Association to monitor the use of animals in films), animal advocates consistently pressured the motion picture industry over the harming of animals in films and over release of films in which animals had been harmed. Using boycotts, letter-writing campaigns,

support for state legislation, and engagement with the industry's developing regulatory infrastructure, animal advocates set the groundwork for our modern expectation that no animals be harmed in the making of motion pictures. They also planted themselves firmly on the side of content censorship in a period of American cinematic history that saw filmic expression denied First Amendment protections. For animal advocates, censorship—whether administered by the state, by the industry, or by empowered independent parties—was a promising tool for protecting animals.

Historians have traced the history of film censorship, and a brief summary of that history is necessary for understanding how animal advocacy figured in the broader cultural and commercial context of industry regulation in the first half of the twentieth century. Film censorship emerged from broader moral concern that mass entertainment caused delinquency, corruption of youth, and moral degeneracy.<sup>5</sup> Motion pictures were threatening in that films represented the world with a kind of realism that struck reformers as especially hazardous in its influence. Reformers were worried that people—especially children—were likely to be morally influenced by the version of reality they saw represented on screen. Thus visions of debased lives were likely to cause debasement in viewers. In 1907, for example, *Motion Picture World* reported a story of two young girls who, having just seen a film about a thief, went out and shoplifted.<sup>6</sup> If American society were to be a moral one, representations of immorality needed to be censored.<sup>7</sup> Scenes of animal cruelty were among those representations that needed censoring.

The enactment of censorship in the context of motion pictures was a complicated contest over cultural space in which a variety of ideologies and parties—religious, economic, political—

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<sup>5</sup> Lee Grieveson, *Policing Cinema: Movies and Censorship in Early-Twentieth-Century-America* (Berkeley: University of California Press, 2004), 13, 18.

<sup>6</sup> Stephen Prince, *Classical Film Violence: Designing and Regulating Brutality in Hollywood Cinema, 1930-1968* (New Brunswick, NJ: Rutgers University Press, 2003), 15.

<sup>7</sup> Couravers, ed. *Movie Censorship and American Culture*, 10.

competed for influence or collaborated, utilizing a variety of tools to limit the production and exhibition of offending content, all of which fall under the broad category of “censorship.” Prior to the 1920s, most censorship took place at the state and municipal level. In 1907, following outcry over a film called *The Unwritten Law* (1907), the City Council of Chicago passed a law that “It shall be unlawful for any person, firm or corporation to show or exhibit in a public place or in a place where the public is admitted anywhere in the City of Chicago any picture or series of pictures... without having first secured a permit therefore from the Chief of Police of the City of Chicago.”<sup>8</sup> Many municipalities developed similar censoring mechanisms in the 1910s, and several states also established boards of censors, including such early adopters as Pennsylvania (1911), Ohio (1913), Kansas (1914), and Maryland (1916). By the mid-1920s, there were seven state censor boards and hundreds of municipal boards spread across twenty-three states. Many cities such as Chicago, Memphis, Dallas, Atlanta, and Detroit had boards that could harm profits by forbidding a picture to be shown if they determined it was obscene, indecent, or immoral.<sup>9</sup>

If the powers of state and municipal censor boards might seem to Americans in the twenty-first century a violation of the First Amendment’s free speech protections, Congress and the judiciary thought differently during this period. Motion pictures were considered commercial entertainment, not speech. Attempts to create a federal censor board failed in Congress in 1914 and 1915, but other legislative and judicial developments in the same decade affirmed state censorship.<sup>10</sup> First, the Sims Act in 1912 placed films under federal regulatory control pursuant to the Commerce Clause of the U.S. Constitution, which long empowered the federal government to seize obscene

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<sup>8</sup> Grieveson, *Policing Cinema*, 73.

<sup>9</sup> Ibid, 23-24; Laura Wittern-Keller, *Freedom of the Screen: Legal Challenges to State Film Censorship, 1915-1981* (Lexington: University of Kentucky, 2008), 30.

<sup>10</sup> Wittern-Keller, *Freedom of the Screen*, 51.

print materials.<sup>11</sup> Second, the U.S. Supreme Court ruled in *Mutual Film Corporation v. Industrial Commission of Ohio* (1915) that motion pictures were not constitutionally protected speech, setting a precedent that would hold until the court reversed itself in 1952. In the decision, Justice Joseph McKenna wrote, “the exhibition of moving pictures is business, pure and simple, originated and conducted for profit, like other spectacles, not to be regarded, nor intended to be regarded by the Ohio Constitution, we think, as part of the press of the country, or as organs of public opinion.”<sup>12</sup> Motion pictures were commercial entertainment, nothing more. They did not express ideas, and their content could be censored by the state.

The Sims Act and the *Mutual* decision worried the motion picture industry, and the specter of federal censorship loomed. A compromise—self-regulation—became the defining feature of industry censorship from the 1920s forward.<sup>13</sup> The industry accepted the definition of film as commerce and, in the 1920s and 1930s, created an infrastructure for self-policing that would hold state censors at bay. Success depended on Hollywood’s ability to convince the public—and the state—that they were invested in producing clean and wholesome entertainment. To that end, in 1922, three motion pictures studios founded the Motion Picture Producers and Distributors of America, a trade association that would serve as Hollywood’s public relations arm. Headed by William H. Hays, it engaged the reform groups that had often competed with state and municipal censor boards over censorship control of films.

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<sup>11</sup> Grieverson, *Policing Cinema*, 131.

<sup>12</sup> Ibid, 198-201; Wittern-Keller, *Freedom of the Screen*, 43; Thomas Doherty, *Hollywood’s Censor: Joseph Breen and the Production Code Administration* (New York: Columbia University Press, 2007), 32-33; Garth S. Jowett, “A Capacity for Evil: The 1915 Supreme Court *Mutual* Decision” in Matthew Bernstein, ed. *Controlling Hollywood: Censorship and Regulation in the Studio era* (New Brunswick: Rutgers University Press, 1999); Jon Lewis, *Hollywood v. Hard Core: How the Struggle Over Censorship Saved the Modern Film Industry* (New York: NYU Press, 2000), 89-92; Christopher M. Finan, *From the Palmer Raids to the Patriot Act: A History of the Fight for Free Speech in America* (Boston: Beacon Press, 2007), 75; *Mutual Film Corporation v. Industrial Commission of Ohio*, 236 U.S. 230 (1915).

<sup>13</sup> Finan, *From the Palmer Raids to the Patriot Act*, 78.



Social reformers saw the MPPDA as an opportunity to work with Hollywood to produce moral films, rather than simply censor the immoral films that arrived in local theaters. Films could become tools in their broader mission of moral improvement.<sup>14</sup> Hays sought out relationships with religious, civic, and educational reform organizations and established an evolving code of rules and recommendations that would govern Hollywood filmmaking from scriptwriting to release. The MPPDA distributed “the Formula” (1924) and the “The Don’ts and Be Carefuls” (1927) to member companies, ratified the Production Code in 1930, and empowered the Production Code Administration (PCA) to enforce it beginning in 1934. The Production Code, often called the “Hays Code,” was revised over time and governed film content from its implementation in 1934 until 1966, when it was replaced with a ratings system. The PCA closed in 1968.<sup>15</sup>

Humane organizations such as the American Humane Association and Societies for the Prevention of Cruelty to Animals were among the groups demanding that films become moralizing forces, whether through state or industry censorship. The AHA, which worked on child protection as well as animal welfare, warned of the “debauching and demoralizing” nature of films and of “the connection between motion pictures and crime.” It asked that people concerned about child welfare be “alert in restricting and safeguarding the attendance of children at these motion picture productions.” Animal advocates were therefore committed to censorship on general principle while

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<sup>14</sup> Some of the other groups were: New York Society for the Suppression of Vice, Woman’s Christian Temperance Union, Young Men’s Christian Association, the Christian Endeavor, the Protestant Church, the Catholic Church, the League of American Mothers, the National Congress of Mothers, the Society for Prevention of Cruelty to Children, the General Foundation of Women’s Clubs, the Watch and War Society, the National Association of Colored Women, and the International Reform Bureau; Wittern-Keller, *Freedom of the Screen*, 31.

<sup>15</sup> Doherty, *Hollywood’s Censor*, generally; “Introduction” and Richard Maltby, “*The King of Kings* and the Czar of All the Rushes: The Propriety of the Christ Story,” in Bernstein, ed. *Controlling Hollywood*; Wittern-Keller, *Freedom of the Screen*, 31, 52; Lewis, *Hollywood v. Hard Core*, 301-07; Leonard J. Leff and Jerold L. Simmons, *The Dame in the Kimono: Hollywood, Censorship, and the Production Code from the 1920s to the 1960s* (New York: Grove Weidenfeld, 1990), generally; Francis G. Couvares, “Hollywood, Main Street, and the Church: Trying to Censor the Movies before the Production Code,” in Francis G. Couvares, ed. *Movie Censorship and American Culture*; Finan, *From the Palmer Raids to the Patriot Act*, 174-175.

also working to ban animal cruelty from filmmaking and from the screen.<sup>16</sup> There was a great deal of conceptual overlap between those impulses. Animal advocates spoke of cruelty to animals in the same terms that moral reformers spoke of movies: as demoralizing and corrupting to individuals and society, as especially dangerous for impressionable children, and as associated with other criminal behavior. Humane reformers also had a history of using narrative media like novels and illustrated children's book as tools to cultivate kindness, and they would have seen film technology and motion picture entertainment a new tools in that effort.

Identifying incidents of animal cruelty on film sets and on theater screens was logistically challenging and animal advocates worked to establish methods for policing filmmaking and film content in the years before the MPPDA was formed. SPCAs in Los Angeles and San Francisco did their best to gather and disseminate information to the AHA and other groups, but it was very difficult to do. The AHA described film production as a closed world in 1917. Unless management gave written consent "a humane officer cannot gain admission," the AHA lamented in its monthly magazine, *The National Humane Review*. "The tortured animal can't tell about it, and the employee knowing his position is at stake, dare not."<sup>17</sup> Once those films were released to theaters, it was impossible for employees and leadership at AHA to watch everything. Crowd-sourcing quickly became a main tool in the campaign to end on-screen animal cruelty. A reader of the *National Humane Review*, in a typical early example, reported from Dallas that he had seen a film that "represented a bloody animal hunt, which resulted in the killing of a number of beasts."<sup>18</sup> The AHA urged readers of the *National Humane Review* to write in with the titles of objectionable films, and to

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<sup>16</sup> "Censorship Imperative," *National Humane Review*, vol. 1, no. 2 (February 1913), 37; "The Moving Picture Problem," *National Humane Review*, vol. 1, no. 4 (April 1913), 85; "Children and Movies," *National Humane Review* vol. 2, no. 2 (February 1914), 37.

<sup>17</sup> "Motion Picture Industry and Its Attendant Cruelties," *National Humane Review*, vol. 5, no. 9 (September 1917), 166.

<sup>18</sup> "Effective Censorship Needed," *National Humane Review*, vol. 2, no. 5 (May 1914), 109.

write letters of protest to local newspapers and theater managers. They could also protest outside theaters after a film had been identified as objectionable and organize local boycotts.<sup>19</sup>

Animal advocates were not satisfied with grassroots policing and they doubted the effectiveness of private regulatory agencies such as the National Board of Censors, which had given its approval to the “bloody animal hunt” shown in Dallas. Through the 1910s and early 1920s, therefore, the AHA argued time and again that effective film censorship, industry transformation, and animal protection could only be accomplished when state and federal authority was brought to bear on immoral content. In 1918, AHA described the “wisdom” of states that had established censor boards to “safeguard the public, especially children, from much of that is morally bad and degrading.”<sup>20</sup> In 1920, it offered high praise for the Ohio Board of Censors, which had five years earlier been the defendant in the *Mutual* case. Since then, the Ohio board had, in one instance, forced producers to remove a scene from a film in which horses were forced to jump off a cliff into water. “The Ohio Censors are doing splendid work in preventing the display of cruel movies in their State,” the AHA reported. “Friends of animals in other states would do well to agitate for a Censorship Board which will prove as efficient as the Ohio officials.”<sup>21</sup> When the New York legislature voted to establish its censorship board in 1921, the AHA voiced its support.<sup>22</sup> When the voters of Massachusetts decided that they didn’t want a state censor board in their state, the AHA lamented. And when Governor Lee M. Russell backed a bill for state censorship in the Mississippi, the AHA described him as “one of the forward-looking chief executives who realize the need for

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<sup>19</sup> “Motion Picture Industry and Its Attendant Cruelties,” 166; “Motion Picture Protest,” *National Humane Review*, vol. 9, no. 6 (June 1921), 115; “Hiss Cruel Movies,” *National Humane Review*, vol. 8, no. 6 (June 1920), 110.

<sup>20</sup> “Motion Picture Censorship,” *National Humane Review*, vol. 6, no. 11 (November 1918), 219.

<sup>21</sup> “Cruel Movie Scene Eliminated,” *National Humane Review*, vol. 8, no. 9 (September 1920), 171.

<sup>22</sup> “Special Film Censorship,” *National Humane Review*, vol. 9, no. 7 (July 1921), 130.

censorship.”<sup>23</sup>

This position came straight from the top of the AHA hierarchy. Dr. William O. Stillman, President of the AHA, offered a vigorous argument for state censorship in a lengthy essay on the motion picture industry that first appeared in the *National Humane Review* in 1922. “It ought to be a matter of public policy to prevent the appearance of motion pictures depicting cruelty or brutality to animals,” Stillman believed. He absolutely refused to accept that the industry could regulate itself. “Cannot the legislatures or the governors,” he asked, “appoint censors who will censor and protect public morals and decency and protect the public from exhibition or cruelty and moral rottenness?” The AHA soon began to distribute the essay as a pamphlet. To protect society from the debasing effects of cruelty and to promote moral virtue, they endorsed censorship apparatuses that would be ruled unconstitutional thirty years later.<sup>24</sup>

The ultimate goal for the AHA during this pre-MPPDA period was censorship administered by the ultimate authority: the U.S. federal government. While praising states and municipalities that established censor boards, the AHA also called for federal intervention into the motion picture industry. “What is most needed to regulate the character of motion picture films is a National Board of Censorship,” which would “have authority, through the Federal Government, to refuse the interstate shipment of motion pictures, which do not come up to a reasonable standard of moral and humane excellence.” Writing in 1914, two years after the Sims Act empowered the federal government to regulate films under the Commerce Clause, and a year before the U.S. Supreme Court ruled in *Mutual* that films were not protected by the First Amendment, the AHA hoped that “proper legislation of this kind will be passed by Congress and vigorously enforced by the Federal

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<sup>23</sup> “Governor for Movie Censorship,” *National Humane Review*, vol. 10, no. 12 (December 1922), 227.

<sup>24</sup> Dr. William O. Stillman, “Film Standards: A Very Serious Situation,” *National Humane Review*, vol. 10, no. 5 (May 1922), 83-84.

Government.”<sup>25</sup> It became a common refrain in this period. In 1916, when one film, about the interior of Australia, featured “nothing but natives torturing animals,” the AHA again announced an “urgent need for adequate national censorship” and hoped for “a proper Federal censorship bill become law.”<sup>26</sup>

For a short time, the hope seemed plausible. In 1914, the U.S. House of Representatives considered the Smith-Hughes Motion Picture Bill, which would have required that the President of the United States appoint four or five federal censors to ban or edit films that were “obscene, indecent, immoral, inhumane.” The AHA came out in support of Smith-Hughes, hoping the “federal bill will become a law for many wholly objectionable films are constantly exhibited throughout the country.” AHA leadership had already asked members to report objectionable films in letters to producers, theater managers, and local newspapers. In 1914, the AHA asked for another letter: “Let humanitarians write to their members of Congress and call for the passage of this bill.”<sup>27</sup>

Federal censorship was, in the end, not to be, but the AHA remained strongly supportive of censorship administered by governmental authority—states, cities, and municipalities across the United States—while remaining largely silent on the constitutional implications of state-administered censorship. The Sims Act and the *Mutual* decision had firmly denied motion pictures the free speech protections of the First Amendment, but there were other voices of dissent. Most salient was the free speech argument that was offered, and rejected, in *Mutual*. The same argument appeared elsewhere when movies were banned. D.W. Griffith, for example, invoked the First Amendment when state censor boards in Illinois, Michigan, Kansas, and Ohio banned *The Birth of a Nation* (1915). In the wake of the Sims Act, William Gaynor, Mayor of New York City, defended cinema as free

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<sup>25</sup> “Effective Censorship Needed,” 113.

<sup>26</sup> “Commercializing Cruelty,” *National Humane Review*, vol. 4, no. 10 (October 1916), 219.

<sup>27</sup> “Humane Legislation: Federal Motion Picture Bill,” *National Humane Review*, vol. 2, no. 8 (August 1914), 187; “Moving Pictures,” *National Humane Review*, vol. 2, no. 9 (September 1914), 205.

press: “Ours is a government of free speech and a free press. That is the cornerstone of free government. The phrase ‘the press’ includes all methods of expression of writing or pictures.”<sup>28</sup>

There would likely have been a variety of opinions on free speech within the humane ranks, but the most vocal statement by leadership dismissed those concerns. In 1922, Nathaniel J. Walker, the Secretary of the AHA, offered a long defense of state censorship in an article called “The Great Need for State Censorship of Motion Pictures,” in which he noted that the word “censor,” as opposed to “regulate,” “seems to be particularly offensive to that class of our people who are constantly prating about personal liberty.”<sup>29</sup>

Animal advocates campaigned against filmed cruelty by adapting themselves to these and other evolving institutions of power. Even as animal advocates were calling on the state to regulate the motion picture industry, they saw the MPPDA and William Hays as allies worth engaging in the 1920s and 1930s. At the most basic level, the MPPDA was a new destination for letters of protest by filmgoers who saw animal cruelty on screen. Humane groups identified dozens of such films in these years. Some of these films had high profiles, such as *The Ten Commandments* (1923), of which the MSPCA’s *Our Dumb Animals* reported, “The cruelty to animals involved in the filming of this picture, we are told, is excessive.”<sup>30</sup> Most films, such as *Sporting Thrills* and *The Lost Jungle*, were minor pictures that might easily have slipped through the cracks without grassroots policing.<sup>31</sup> The AHA recommended that people concerned about a scene of animal cruelty first “approach the local exhibitor with a request for a change of program” and, second, “approach the Motion Picture

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<sup>28</sup> Grieveson, *Policing Cinema*, 194-195; 133-134.

<sup>29</sup> Nathaniel J. Walker, “The Great Need of State Censorship of Motion Pictures,” *National Humane Review*, vol. 10, no. 2 (February 1922), 25).

<sup>30</sup> “The Ten Commandments,” *Our Dumb Animals*, vol. 56, no. 11 (April 1924), 180.

<sup>31</sup> “Another Vicious Picture,” *Our Dumb Animals*, vol. 66, no. 7 (July 1933), 100; “Cruelty in Motion Pictures,” *Our Dumb Animals*, vol. 68, no. 1 (January 1935), 12.

Producers and Distributors of America, Inc.” to request that the film be withdrawn.<sup>32</sup>

Humane groups also sought to establish institutional relationships with the MPPDA and Hays. They were cautiously optimistic. Both parties were publicly in agreement, but animal advocates would need to apply pressure for real change. On January 23, 1924, Hays sat for a meeting with representatives of the American Animal Defense League to discuss eliminating cruelty from films. He issued a broad condemnation of animal cruelty. “I am entirely in sympathy with an effort to make sure there is no cruelty, either real or implied, in motion pictures and we are together seeking the elimination of any real cruelty,” he told the humane advocates. He promised to recommend to the MPPDA that designated observers be allowed to monitor sets. The MSPCA was encouraged: “Cruelty to animals in the production of motion pictures will not be further permitted if the recent manifesto of Mr. William H. Hays, president of the Motion Picture Producers of America, Inc. is complied with.”<sup>33</sup> The next year, the MPPDA adopted the following resolution:

That to further promote co-operation, there shall be admitted any time, upon demand, to any studio or location, in addition to legally authorized agents now admitted, any accredited agent or agents agreed upon by the president of the Motion Picture Producers and Distributors of America, Inc., and the presidents of national or state humane societies.

The AHA expressed its faith in Hays, whom they believed was “anxious to eliminate cruelty.”<sup>34</sup>

A relationship was forming, but for the next several years, the relationship would be defined, varying, by promises and seemingly broken promises (on the part of the motion picture industry) and by faith and frustration (on the part of advocates). Beginning with the resolution in 1925, the motion picture industry codified its opposition to animal cruelty within an evolving structure of content regulation and censorship. In 1927, “apparent cruelty to children and animals” appeared in

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<sup>32</sup> “Objectionable Pictures,” *National Humane Review*, vol. 18, no. 7 (July 1930), 19.

<sup>33</sup> “Cruelty, Real and Implied, Must Cease,” *Our Dumb Animals*, vol. 56, no. 10 (March 1924), 148.

<sup>34</sup> “Little Gross Cruelty to Animals in Films,” *National Humane Review*, vol. 13, no. 8 (August 1925), 2.

the MPPDA's "Don't and Be Carefuls," an early attempt to standardize content regulation.<sup>35</sup> Three years later, in 1930, the first version of the Production Code similarly included animal cruelty under a list of "repellent subjects," which were to be "treated within the careful limits of good taste."<sup>36</sup> These steps did nothing to prevent animals from suffering on film sets, but they did prevent depictions of animal cruelty from debasing the viewing public.

Codes and commitments too often failed to produce results. The AHA and MSPCA continued to receive reports of animal cruelty in films. In 1931, the MSPCA received so many letters of complaint about animal cruelty that it was forced to explain to the readers of *Our Dumb Animals* why things in Hollywood hadn't changed: "If only we had the legal power so many people seem to think we have!"<sup>37</sup> The next month, the MSPCA openly criticized the MPPDA for failing to honor their anti-cruelty resolutions. "A few years ago they passed a series of resolutions asserting their purpose to permit no cruelty whatever to animals in any future motion picture," the organization communicated in an editorial in *Our Dumb Animals*. "We regret to say that, to the best of our knowledge, these resolutions have not been kept, and we can't help wondering if there was ever any intention in keeping them."<sup>38</sup> The AHA, too, reported that it had tried to "give the movie industry a square deal" by trusting that "the industry would reform itself from within." But the industry's commitment seemed doubtful.<sup>39</sup>

In the second half of the 1930s, the AHA, the MSPCA, and other humane groups seized on scenes of animal cruelty in two high-profile films to demand more effective reform from the

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<sup>35</sup> "The Don'ts and Be Carefuls" (1927) reprinted in Lewis, *Hollywood v. Hard Core*, 301-302; Prince, *Classical Film Violence*, 20.

<sup>36</sup> "The 1930 Production Code," reprinted in Lewis, *Hollywood v. Hard Core*, 307.

<sup>37</sup> "The Motion Picture Business: Why Don't You Do Something," *Our Dumb Animals*, vol. 64, no. 7 (July 1931), 100.

<sup>38</sup> "Cruelty to Animals in Motion Pictures," *Our Dumb Animals*, vol. 64, no. 8 (August 1931), 116.

<sup>39</sup> "The Filming of Trade Horn," *National Humane Review*, vol. 19, no. 5 (May 1931), 22.



MPPDA and from the Production Code Administration. Those films were *The Charge of the Light Brigade* (1936) and *Jesse James* (1939). Both became staging grounds for national humane organizing around cruelty in films that would result in 1940 in the empowerment of the AHA to oversee all use of animals in Hollywood.

Controversy surrounding *The Charge of the Light Brigade* (1936) began with a complaint to the San Francisco SPCA, which responded immediately to the tip by dispatching humane officers to the set. There, officers discovered three to four hundred horses, a series of large, camouflaged traps roughly eight feet deep, and a system of trip-wires known as the “Running W.” Filmmakers used the “Running W.” to trip horses at full gallop in order to produce the effect of a horse having been shot or injured in battle. It worked by attaching wires, at one end, to a horse’s front legs, and at the other, to an iron stake. Horses would gallop until their legs were abruptly pulled out from under them when the slack in the wire ran out. Several horses were seriously injured and killed on the set of *The Charge of the Light Brigade*. Horses broke their legs and backs, and those that did not die from their injuries quickly were shot and buried near the set.<sup>40</sup>

Animal advocates were outraged that such a film could be made despite the industry’s assurances that it could regulate itself. The SPCAs of Los Angeles and San Francisco launched investigations. *Our Dumb Animals* and the *National Humane Review* published several stories about the film and encouraged readers to boycott *The Charge of the Light Brigade* and other films by Warner Brothers, the studio responsible for the film. The voices of humane advocates were heard, at least. J.L. Warner, of Warner Brothers, wrote to the SFSPCA to express his regrets, insisting that “the acts complained of will never be committed either by this company or by any of its agents,” and that the scene featuring the cruel acts “will not be used by us in connection with the photoplay when it is

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<sup>40</sup> “Motion Picture Cruelty,” *Our Dumb Animals*, vol. 69, no. 8 (August 1936), 128; “Animals in Motion Pictures: Plan to Prevent Cruelty in Future Productions,” *National Humane Review*, vol. 24, no. 10 (October 1936)

finally released for public showing.”<sup>41</sup> That would prove a false promise.

The AHA and MPPDA entered negotiations in the wake of *The Charge of the Light Brigade* that resulted in a plan for monitoring scripts, sets, and post-production. The PCA would review scripts for scenes involving animals and, if a scene seemed potentially cruel, would refer the script to a “small advisory group appointed by the American Humane Association.” Together, the advisory committee and PCA would determine how to proceed. During filming, “either an advisory member or an accredited representative” would be on-set to ensure that filming corresponded to any procedures agreed upon in advance. The advisory committee would also be empowered to review films after production and make recommendations to the PCA about censoring scenes or denying the film approval. It seemed a promising arrangement.<sup>42</sup> Just a month after this agreement, though, the AHA was shocked when *The Charge of the Light Brigade* appeared in theaters uncensored. It was a warning sign about the new institutional arrangement.<sup>43</sup> By 1938, the AHA was announcing that the “plan has never become effective.” Having placed “great reliance on the industry’s desire to eliminate cruelty to animals,” the AHA was concerned to constantly see scenes “*that seemed to involve cruelty*.” Those scenes raised “a grave question as to the amount of effort on the part of the industry to live up to the agreement.”<sup>44</sup>

Animal advocates saw the *Charge of the Light Brigade* episode as evidence that state regulation might still be needed. They looked abroad to the UK, which passed the Cinematograph Films (Animals) Act in 1937, making it illegal to either depict the suffering of animals or to harm animals in the making of motion pictures. The AHA warned that continued failure by Hollywood to protect

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<sup>41</sup> “The Moving Pictures and Cruelty,” *Our Dumb Animals*, vol. 69, no. 10 (October 1936), 147-148.

<sup>42</sup> “Animals in Motion Pictures: Plan to Prevent Cruelty in Future Productions,” *National Humane Review*, vol. 24, no. 10 (October 1936)

<sup>43</sup> “The Charge of the Light Brigade,” *National Humane Review*, vol. 24, no. 12 (December 1936), 7.

<sup>44</sup> “Stop Cruelty in the Movies,” *National Humane Review*, vol. 26, no. 5 May 1938), 6.

animals would “make it necessary to seek similar legislation in each of our 48 states.”<sup>45</sup> The MSPCA took the same position: “Legislation is absolutely necessary to prohibit the showing of any part of a picture in which cruelty to animals has occurred.”<sup>46</sup> Animal advocates had long believed that the state was the best authority to reform Hollywood. When *The Charge of the Light Brigade* revealed the failures of industry self-regulation, that belief was renewed.

And then a Hollywood stunt rider rode a horse off a cliff to its death. It was 1939 and the film was *Jesse James*. A scene in the film required that a horse fall off a 70-foot cliff into a body of water. According to witnesses, crewmembers rigged a special saddle for the stunt-rider, and constructed a greased chute that would propel the horse off the cliff. The horse hit the water and drowned. Needing a second take, the crew recovered the body with grappling hooks, strapped the trick saddle to a second horse, and shot the scene again. The *National Humane Review* imagined the suffering each horse must have endured during a “long a merciless descent frozen by fear and able only to whinny loudly its intense mental anguish.”<sup>47</sup> It was the final straw for animal advocates who threatened to bring public opinion to bear on state legislatures in order to regulate a motion picture industry that had proved unwilling to regulate itself. Humane leaders expressed as much to Hays in strongly worded letters. To its members, the AHA declared: “The humanitarians of America must revise their attitude toward the motion picture industry. We can be patient no longer. We must meet the challenge with the weapons at our disposal; we appeal to that highest of all courts—world opinion.”<sup>48</sup> Over six hundred humane organizations coordinated a boycott of *Jesse James* and a letter-

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<sup>45</sup> “Protest Cruelty in Pictures,” *National Humane Review*, vol. 26, no. 11 (November 1938), 14; on the Cinematograph Films (Animals) Act of 1937: Burt, *Animals in Film*, 137-138.

<sup>46</sup> “Motion Picture Cruelty,” *Our Dumb Animals*, 128.

<sup>47</sup> “Cruelty to Animals in Filming ‘Jesse James,’” *National Humane Review*, vol. 27, no. 2 (February 1939), 3-6.

<sup>48</sup> Letter, Francis H. Rowley to William H. Hays, January 19, 1939; reprinted in *Our Dumb Animals*, vol. 72, no. 3 (March 1939), 35; “Appeal to William Hays” and “Animals in the Movies,” *National Humane Review*, vol. 27, no. 2 (February 1939), 14.

writing campaign to Twentieth Century Fox Studios. Within months, a petition against the film had received 50,000 signatures, and negative stories about the cruel scene appeared in newspapers across the country.<sup>49</sup>

Mounting pressure would force an institutional response. The AHA appointed a Western Regional Director, Richard C. Craven, and dispatched him to Hollywood, where he began an investigation of the Running W. He also entered into negotiations with industry leadership.<sup>50</sup> Craven and the AHA wanted a stronger role in monitoring films. The industry wanted to avoid state and federal regulation. On December 27, 1940, the MPPDA amended the Production Code to include “Special Regulations on Cruelty to Animals”: first, the PCA would not approve of any film in which the Running W. had been used; and second, filmmakers who planned to use an animal in their films would need to notify the MPPDA and permit AHA oversight on-set. “Every lot where an animal scene is being shot,” Craven reported in the *National Humane Review*, “is open to me.”

The power of the Production Code seemed to promise enforcement. “[T]hey are bound by their Code,” Craven noted, “and must observe it if they wish to obtain for a picture the approval of the Hays office.”<sup>51</sup> After the first year of the arrangement, Craven was able to report that no animal had been seriously injured or killed in the making of a film in 1941. The *Boston Globe* declared:

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<sup>49</sup> “Petitions,” *National Humane Review*, vol. XXVII, no. 6 (June 1939), 14.

<sup>50</sup> Richard C. Craven, “Battle Scenes in Motion Pictures: Gross Cruelty in Device for Throwing Horses,” *National Humane Review*, vol. 28, no. 6 (June 1940), 4; Richard C. Craven, “Movies Can Be Made Without Cruelty,” *National Humane Review*, vol. 28, no. 8 (August 1940), 7; Richard C. Craven, “Hollywood Wins 1941 Convention,” *National Humane Review*, vol. 28, no. 11 (November 1940), 9.

<sup>51</sup> Doherty, *Hollywood’s Censor*, 357-8; Prince, *Classical Film Violence*, 45; Burt, *Animals in Film*, 153; Richard Craven, “Animals in Motion Pictures: Complete Accord Reached with Producers Association,” *National Humane Review*, vol. 29, no. 1 (January 1941), 3; Richard Craven, “Taking Cruelty from the Screen,” *National Humane Review*, vol. 29, no. 2 (February 1941), 9.

“Cruelty to animals in the picture business is ended.”<sup>52</sup> It seemed an outrageously premature assessment, but it proved a more or less correct one. It would not be until the late 1960s—after a series of legal and industry transformations that included: the U.S. Supreme Court ruling that films were protected by the First Amendment; the decentralization of Hollywood and the rise of independent and foreign cinema; and the unraveling of the Production Code—that animal advocates would again need to mount a national campaigns against acts of animal cruelty on sets and against depictions of animal cruelty on screen.

For roughly thirty years, then, from the 1910s until 1940, humane organizations and the American Humane Association, in particular, were constantly engaged with issues of regulation and censorship in the motion picture industry. Animal advocates monitored films for cruel content and facilitated popular protest of offending studios and filmmakers. They engaged the evolving self-regulatory apparatus that developed in the 1920s with the founding of the MPPDA and with the founding of the Production Code Administration in the 1930s. They ensured that prohibitions against animal cruelty be codified in the Production Code under the threat of films being denied PCA approval if studios failed to abide the AHA. As the motion picture industry developed over these years, animal advocates worked to protect animals from suffering on movie sets. They also worked to protect individuals and American society from the demoralizing influence of cruel images. Amidst broad transformations in media technology, communications, entertainment, and the motion picture industry itself, they adapted traditional ideas about animal cruelty to a new social and cultural world, giving shape to those transformations in the process.

Animal advocates were also embedded in a parallel history of law and ideas surrounding censorship and free expression in this changing media landscape. They supported governmental

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<sup>52</sup> “The Movies and Cruelty,” *Our Dumb Animals*, vol. 74, no. 4 (April 1941), 70; Richard Craven, “How Battles Are Fought in the Movies,” *National Humane Review*, vol. 29, no. 11 (November 1941), 4; “Animals in the Movies,” *Our Dumb Animals*, vol. 75, no. 9 (September 1942), 170.

ensor boards that levied the power of the state against film content that was not considered protected speech, per the U.S. Supreme Court's ruling in *Mutual*. They looked to state institutions and agents to regulate what could be exhibited in theaters and they praised the state and municipal censor boards that operated during this era. They also looked to the power of the federal government. The threat of federal intervention pressured the industry to make good on its self-regulatory commitments in 1940, but it was more than a scare tactic for animal advocates. It was a dream of forming the strongest apparatus of censorship imaginable—a national censor board empowered to ban offensive content, including depictions of animal cruelty. The dream would not come to pass in this era, but the appeal of state censorship remained, even as industry and legal transformations would gradually open spaces for the exhibition of offensive content, including depictions of animal cruelty.

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In 1951, the American Humane Association began a new Hollywood initiative: the PATSY awards. PATSY was an acronym that first stood for Picture Animal Top Star of the Year, and then later, as television grew as a form of media entertainment, also stood for Performing Animal Television Star of the Year. The PATSY awards celebrated the work of animal actors in Hollywood. The first ceremony was held at Hollywood's Carthay Circle Theater. Ronald Reagan presided, and Francis the mule won the inaugural PATSY award for his role in *Francis the Talking Mule*.

The PATSY awards were more than an award ceremony. They were a signal from the AHA that its leadership was pleased with the treatment of animal actors under the regulatory regime established by the Production Code. By 1951, the AHA was no longer waging publicity campaigns against films such as *Jesse James* and *The Charge of the Light Brigade*. It was, instead, honoring the contribution of performing animals that played popular roles within a movie industry structure that granted the humane organization access to scripts, sets, and post-production screenings. The

PATSY awards were a celebration, therefore, of animal actors, of the people who trained them, of human workers who ensured their treatment, and of an industry that had, in the eyes of the AHA, reformed itself. The *National Humane Review* was no longer filled with reports of animal cruelty in movies, but rather, with glowing industry reports and film reviews that ensured advocates that animals in Hollywood were treated well, that the era of boycotts had ended, and that movie-goers need not write to the AHA each time they saw a horse fall in a film. “Some people quiver in their seats at the movies when they see horses charge full speed and the coach or wagon break away or even overturn,” Richard Craven wrote in one of many reassuring articles for *NHR*. “They wonder how it can be done without hurting the horses, and they imagine the animals have fled to their doom.” Not so, he promised, explaining the movie magic in detail.<sup>53</sup> Articles such as this one appeared in the *NHR* throughout the Production Code years, as the AHA exerted authority over animals in motion pictures and was eager to announce its pleasure with the results. After the Production Code was abolished in the late 1960s, the AHA would look back at these years as ones of stability and humaneness within Hollywood.<sup>54</sup>

While the AHA celebrated Francis the mule and encouraged people to see *The Jungle Book*, America was changing and so were filmmaking and the law. The regulatory regime that protected animals in motion pictures would find itself on increasingly shaky ground as years passed until it collapsed in the late 1960s. The first destabilizing event was the decentralization of motion picture production and the severing of production and exhibition, which facilitated the rise of independent and foreign films. The centralization of Hollywood in just a few major studios had meant that the PCA could effectively control Hollywood content, since the studios relied on PCA certification for

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<sup>53</sup> Richard Craven, “Around Hollywood,” *National Humane Review*, vol. 30, no. 2 (February 1942), 8-9.

<sup>54</sup> See also, for example, Richard Craven, “How Battles are Fought in the Movies,” *National Humane Review*, vol. 29, no. 11 (November 1941), 4.; Richard Craven, “Animals in Epic Movie,” *National Humane Review*, vol. 30, no. 5 (May 1942), 14-15; “Making Movies with Animals,” *National Humane Review*, vol. 31, no. 12 (December 1943), 6-7.

release in the theaters that they themselves owned. But there was nothing to keep independent filmmakers and distributors from releasing films without PCA certification in non-studio theaters. That approach became more tenable after 1948, when the U.S. Supreme Court ruled in *United States v. Paramount Picture, Inc.* that the vertical integration of Hollywood, and especially the ownership of so many exhibition theaters by the Big Five studios, violated federal antitrust laws. *Paramount* paved the way for filmmakers to produce and release films outside the restrictions of the PCA.<sup>55</sup> Foreign films, in particular, challenged the reach of the Production Code and the power of censor boards as they arrived in the U.S. in increasing numbers after World War II. Produced outside of Hollywood pre-screening and censorship, foreign films left their American distributors with a choice between editing for PCA approval or moving ahead without it, a path that put them in conflict with local and state censor boards.<sup>56</sup>

The second destabilizing event took place when John Burstyn, a U.S. film distributor specializing in foreign and independent films, released Roberto Rossellini's *The Miracle* (1948) without applying for PCA certification. Deemed "sacrilegious" by censor boards in New York and elsewhere, it was pulled from theaters and banned. Burstyn sued the New York Commissioner of Education on First Amendment grounds, and the case, *Burstyn v. Wilson* (1952) (often just called the *Miracle* case) reached the U.S. Supreme Court. On March 26, 1952, the court unanimously overturned its ruling in *Mutual*. "We conclude that expression by means of motion pictures is included within the free speech and free press guaranty of the First and Fourteenth Amendments," the court stated.<sup>57</sup> Challenges to government administered censor boards continued throughout the

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<sup>55</sup> Wittern-Keller, *Freedom of the Screen*, 100; *United States v. Paramount Picture, Inc.* 334 U.S. 131 (1948).

<sup>56</sup> Doherty, *Hollywood's Censor*, 281.

<sup>57</sup> *Burstyn v. Wilson* 343 U.S. 495 (1952); Doherty, *Hollywood's Censor*, 302, 318; generally: Ellen Draper, "Controversy Has Probably Destroyed Forever the Context": *The Miracle* and Movie Censorship in America in the 1950s" in Bernstein, ed. *Controlling Hollywood*; Wittern-Keller, *Freedom of the Screen*, "Chapter 6: The Strange Case of *The Miracle*, 1950-1952"; Garth Jowett, "A Significant Medium for the Communication of Ideas": *The Miracle* Decision and the Decline of Motion



1950s, culminating in *Freedman v. Maryland* (1965), in which the Supreme Court ruled that those boards were only empowered to approve films, not ban them. Should the board seek to ban a film, the burden of litigation would fall on the board, not on the distributor, as had been the case in the past. *Freedman* effectively de-clawed state censor boards forever, and by 1968, when the MPAA instituted its rating system, the last remaining state boards in Kansas, Virginia, New York, and Maryland were in the process of closing down.<sup>58</sup>

The third destabilizing event was the collapse of the Production Code itself, brought about by the two transformations described above, combined with social pressure from large segments of the American public for Hollywood to end content censorship. Jack Valenti, under whose presidency the MPAA officially abandoned the Production Code remembered it this way: “the slippage of Hollywood studio authority over the content of films collided with an avalanching revision of American mores and customs” in the 1960s, a period of “insurrection on campus, riots in the streets, rise in women’s liberation, protest of the young, doubts about the institution of marriage, abandonment of old guiding slogans and the crumbling of social traditions.”<sup>59</sup> It is perhaps no surprise that the Production Code Administration closed in 1968, a year of global significance for social transformation.

As movies changed, so too did the place of animals in them. Animals found themselves at the center of two parallel cinematic histories that developed from the 1960s until the 1980s: the transnational evolution of transgressive cinema and the emergence of a new Hollywood after the Code, a Hollywood in which filmmakers were no longer bound to work alongside the AHA when

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Picture Censorship, 1952-1968” in Couvares, ed. *Movie Censorship and American Culture*. On both *Paramount* and *Miracle*, see Douglas Ayers, Roy Bates, and Peter Herman, “Self-Censorship in the Movie Industry: An Historical Perspective on Law and Social Change,” *Wisconsin Law Review* 3 (1970): 791-838; *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952).

<sup>58</sup> *Freedman v. Maryland*, 380 U.S. 51 (1965); Justin Wyatt, “The Stigma of the X: Adult Cinema and the Institution of the MPAA Ratings System,” in Bernstein, *Controlling Hollywood*, 240; Jack Valenti, “Motion Picture Censorship in the United States Today,” *Women Law Journal* (1968), 17.

<sup>59</sup> Lewis, *Hollywood v. Hard Core*, 136.

using animals on set, leaving animal advocates to declare the “return of *Jesse James*.”

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Animal advocates have long seen individual, social, and cultural significance embedded in cruelty to animals, but could acts of animal cruelty convey meaning? Could harming an animal communicate, mean, or express something in the sense that the U.S. Supreme Court meant in *Freedman v. Maryland*? Animal advocates had long believed that acts and depictions of animal cruelty produced an effect in people: a debasing and brutalizing effect. Could cruelty produce other effects—the kind of physical, emotional, and intellectual effects that bring people to the movies and that sometimes drive them away?

Amos Vogel thought so. He emphasized the expressive and effective power of animal death in the opening paragraphs of his seminal book on avant-garde cinema, *Film as a Subversive Art* (1974). The audience “shrieked,” Vogel claimed, when Lumière’s train pulled into the station toward the viewer; “It did so again when Buñuel sliced a woman’s eyeball with a razor, when Clouzot quite literally made the dead return, when Hitchcock committed sudden murder in a shower, Franju killed animals before its eyes.”<sup>60</sup> That last example referred to George Franju’s first film, *Le sang des bêtes* (1949), which showed footage from a Paris slaughterhouse, in which horses, cows, calves, and sheep were killed before the camera. The film was, for Vogel, “one of the great masterpieces of the subversive cinema” for its presentation of “visual taboo” in the form of real, unstaged death—in this case, animal death.<sup>61</sup> He argued that Franju’s depictions of real animal death provoked a disturbance of the mind and body. “[H]ere, for once, we are face to face with death, and are neither protected nor cheated,” he wrote of Franju’s film. There were no cut-aways, no tricks—the tools of representing death in Hollywood. In *Le sang des bêtes*, “the camera, objectively and cruelly, stays with

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<sup>60</sup> Amos Vogel, *Film as a Subversive Art* (New York: Random House, 1974), 9.

<sup>61</sup> *Ibid*, 267.

the event, making us its shocked accomplices,” as workers “murder animals in cold indifference before the camera.” The effect of that witnessing was, for the viewer, “to feel what we have not felt before. Violence here is neither fictional or titillating; it is massive and real”; By “forcing us to view another being’s painful and sordid death in all its detailed enormity,” the film, “subverts our habitual state of consciousness and opens us to greater insight.”<sup>62</sup>

This power to shock and disturb led several directors of transgressive cinema (or, as some film historians call it, “paracinema”) in the 1960s and 1970s to include real animal death as an essential feature of their films. Hollywood directors in the pre- and post-Code eras tripped horses for dramatic effect and harmed animals to get their shot, but these paracinematic directors killed animals on-screen to arouse in their audiences the attractions and repulsions that Vogel described. Shock was the goal, and animal killing was the thing, the expressive force. Mikita Brottman has coined the term *cinema vomitif* to describe this “disreputable substream of the horror/exploitation genre” which “produces physical effects on the body of the spectator.” “At its most successful,” according to Brottman, *cinema vomitif* “presents a frontal assault on the audience.”<sup>63</sup> Animal killing and cruelty was essential in the presentation of that frontal assault.

Animal death was a main convention of two related, emergent paracinematic genres from the 1960s through the 1980s, the influence of which eventually extended well beyond paracinema. First was the mondo film, beginning with the iconic *Mondo Cane* (1962). Mondo films were pseudo-documentaries presented as anthropological enterprises, but were, in reality, catalogued visions of the strange, the violent, and the taboo across the world. (Critics have called them “shockumentaries.”) Much of the human violence was staged, but the animal death was almost

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<sup>62</sup> Ibid, 267-268.

<sup>63</sup> Mikita Brottman, *Offensive Films: Toward an Anthropology of Cinéma Vomitif* (Westport, CT: Greenwood Press, 1997), 3-4.

always real, and it was everywhere. Second was the cannibal film, an influential genre for the development of horror cinema in the 1970s and 1980s. Influenced by mondo films, cannibal films focused on fictional cannibal tribes deep in Asian or South American jungles, and the films were notorious for extreme violence and gore, including real animal death. Mondo and cannibal films sit at the periphery of mainstream cinematic history, but they should be at the center of any history of animals in cinema.

Mondo and cannibal films were transnational in terms of production, exhibition, and influence, and the history of these films in the United States is a part of the larger history of film and free expression in the 1960s and 1970s. Supreme Court decisions such as *Paramount*, *Miracle*, and *Freedman* helped open new spaces for transgressive expression while providing free speech protections for film. Many of these films were banned in the UK and elsewhere, or were released with heavy edits, especially to scenes of animal cruelty. In the United States, though, they showed alongside other transgressive films that were violent, sexual, blasphemous or cruel in independent theaters, such as those in Times Square, where studio control and industry regulation did not reach and where film content could push the limits of taste. Wherever they appeared on the silver screen, these films brought with them scenes of animal death, mutilation, and suffering that could be shown in the United States thanks to the evolving legal and industry structures of filmmaking and exhibition.

*Mondo Cane* was a watershed moment in the history of animals on film. Directed by Italian filmmakers Franco Prosperi and Gualtiero Jacopetti, it opened in the United States in April 1963. It played across the country in major cities. It played for fourteen weeks at the Vogue Theater on Hollywood Boulevard. It played at the Forum and the Little Carnegie in New York. It played at the Beacon Hill Theater in Boston. It could still be seen in American theaters as late as 1965, and soon after began to play on television in many markets. It was nominated for the Palm D'Or at Cannes.

Its theme song, “More,” was nominated for the Academy Award for Best Original Song.

These are remarkable things considering *Mondo Cane*’s content, which Judith Crist of the New York Herald Tribune described as “bizarre and barbaric, macabre and gruesome, ironic, hilarious, bloodstained, unconventional, provocative and controversial.”<sup>64</sup> While the American Humane Association and Production Code Administration were policing Hollywood studios to prevent animal cruelty on film sets, a person could easily walk down Hollywood Boulevard, not so far from those sets, buy a ticket to *Mondo Cane*, and witness a host of real cruelties inflicted on animals: a tribe in New Guinea clubbing and slaughtering pigs; workers in Strasbourg force-feeding geese to produce *foie gras*; Malaysian fishermen, out for revenge over a recent spate of shark attacks (so we are told), hooking sharks and stuffing large sea urchins down their throats with oars before releasing them to suffer and die; Gurkha warriors in Nepal decapitating steers with a single sword stroke to demonstrate their strength. When Crist described the film as “bloodstained,” the blood was the blood of animals.

Other contemporary reviewers found the scenes of animal death remarkable and shocking, too. Bosley Crowther, writing for the *New York Times*, described the “horrifying sequence showing the wholesale slaughter of pigs for an orgy of feasting.”<sup>65</sup> Philip Scheuer listed every animal death in his review for the *Los Angeles Times*, “Mondo Cane’ Called Sickening Exhibit.” Of the same pig slaughter scene, he described natives “clubbing the stampeding beasts right and left, barely singeing the carcasses and tearing them apart half-raw.”<sup>66</sup> A reviewer for the *Boston Globe* excoriated the film over the animal scenes. “It is a shocking film in which some of the big moments come when animals

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<sup>64</sup> Bosley Crowther, “Screen: ‘Mondo Cane.’ A Series of Believe-It-or-Not Vignettes,” *New York Times*, April 4, 1963; “Mondo Cane’ Citywide,” *Los Angeles Times*, May 23, 1963; “Mondo Cane’ Shocking but Alleged Authentic,” *Boston Globe*, May 25, 1963; “Mondo Cane’ at Vogue, Lido,” *Los Angeles Times*, July 4, 1963; “Gualtiero Jacopetti, Maker of ‘Mondo Cane,’ Dies at 91,” *New York Times*, August 19, 2011.

<sup>65</sup> Crowther, “Screen,” *New York Times*, April 4, 1963.

<sup>66</sup> Philip Scheuer, “Mondo Cane’ Called Sickening Exhibit,” *Los Angeles Times*, April 8, 1963.

are decapitated with all the gushing gore spread out before your eyes,” the *Globe* reviewer wrote; “when New Guinea natives club a horde of pigs to death (you don’t miss any of the grunts and groans from the poor beasts) and various people from various parts of the world torture assorted animals and fishes. If this is your idea of entertainment then rush to the box office at the Beacon Hill Theater.”<sup>67</sup> Wherever *Mondo Cane* was shown (and it was shown in many, many places) scenes of real animal death lit up the screen, disturbing and shocking viewers as Franju’s images of animal death had disturbed Vogel.

*Mondo Cane* and the films it influenced would often be discussed in terms of “taste.” With free speech protections and no industry censorship to worry these filmmakers, taste became a way for critics to talk about what should be shown, as opposed to what could be. Taste reanimated public discourse about social debasement and about whether films had a responsibility to produce a better social world through moralizing images and stories. George Waldo wrote of *Mondo Cane* in this context for the *New York Times*. He described it as “a film that causes the critic to consider just how far motion pictures can go within the bounds of good taste and public responsibility” and that it “illustrates how thoroughly motion pictures have been revolutionized in the last three decades in what they can so and say.” He described that revolution in terms of the weakened Production Code. *Mondo Cane* was a symptom and expression of this revolution, raising questions about whether there were things that shouldn’t be shown even if the law stated that they could be. “With the increased latitude of subject matter now allowed to films,” he wrote, “attention must be paid to its expression. ‘Mondo Cane’ is less obscene than it is repulsive to ordinary good taste.”<sup>68</sup> Repulsion, shock, and bad taste were key expressive aspects of *Mondo Cane*, and real animal death was the vehicle for producing them. It pushed the boundary of taste, and in the process, pushed on the social norms

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<sup>67</sup> “‘Mondo Cane’ Shocking but Alleged Authentic,” *Boston Globe*, May 25, 1963.

<sup>68</sup> George Waldo, “Taste: How Far Can Motion Pictures Go,” *Los Angeles Times*, June 23, 1963.

that governed taste.

Shock was a key expression of *Mondo Cane*, but real animal death served another important function in mondo films. It was key to producing a related, necessary feature of the mondo genre, and of the exploitation genres that it influence: realness. Mondo needed to be real to be shocking, sensational, and voyeuristic, hence the anthropological pretense, hence the relentless and repeated insistence that everything on screen was true. Vogel noted the importance of realness in the cinematic representation of taboos. “[W]here the taboo image appears as part of a staged event,” he wrote, “its impact on the viewer is far weaker.”<sup>69</sup> Knowing that, Jacopetti and Prosperi began *Mondo Cane* with a promise, shown in text on the screen: “All the scenes that you are about to see are real and were shot as they were taking place. If sometimes they seem cruel it is only because cruelty abounds on this planet. And anyway, the duty of the reporter is not to make the truth seem sweeter but to show how things really are.” The “cruelty” in the film was, by and large, done to animals. The palpable realness of animal suffering and death served to authenticate the realness of the other taboo images, the authenticity of which might otherwise be rightly questioned. One scene in *Mondo Cane*, for example, showed a woman breastfeeding a piglet. An unlikely scene, yes, but one that seemed a bit more real when juxtaposed with the very real clubbing and slaughtering of pigs. Why fake any scene if scenes of death—the “ultimate secret” as Vogel called it; the thing that could only appear in falsified form in the vast majority of motion pictures—were real?

*Mondo Cane* launched a new genre and animal cruelty remained a key expressive convention of global mondo cinema—shocking audiences and verifying the authenticity of things that, the films insisted, were *shocking but true*. Jacopetti and Prosperi returned with *Mondo pazzo* (*Mondo Cane 2*; 1963), which included many other scenes of animal cruelty and death.<sup>70</sup> In 1966, the pair released

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<sup>69</sup> Vogel, *Film as a Subversive Art*, 199.

<sup>70</sup> David Kerekes and David Slater, *Killing for Culture: Death Film from Mondo to Snuff* (London: Headpress, 1996), 167.

*Africa addio* (1966), a mondo film about the transition away from colonial rule in Africa. It featured the killing of elephants, gazelles, and, most notably, the slaughter with knives and spears of a family of hippos at a watering hole. That film directly spawned other mondo explorations of Africa by Alfredo and Angelo Castiglioni, who, for example, filmed supposed tribal customs such as the mass killing of village dogs by clubbing and strangulation in *Africa ama* (*Africa Uncensored*, 1972).<sup>71</sup> Many scenes of animal cruelty appeared in other mondo films by the Castiglioni brothers, including *Africa segreta* (*Secret Africa*, 1969), *Magia nuda* (*Mondo Magic*, 1975), *Addio ultimo uomo* (*The Last Savage*, 1978), and *Africa dolce e selvaggia* (*Shocking Africa*, 1982). Jacopetti's and Prosperi's cinematographer, Antonio Climati similarly incorporated scenes of animal death into his influential trilogy of mondo films, co-directed with Mario Morra: *Ultimo grida dalla savana* (*Savage Man, Savage Beast*, 1974), *Savanta violenta* (*The Violent World*, 1976), and *Dulce e selvaggio* (*Sweet and Savage*, 1983).<sup>72</sup>

Closely related to mondo cinema were cannibal films, an Italian exploitation/horror genre that developed out of mondo and that evolved along a parallel course in the 1970s, achieving cult popularity on the grindhouse theater circuit while presenting moviegoers with mondo-esque visions of animal suffering and death. Italian exploitation director Umberto Lenzi defined the genre with his cannibal trilogy that began in 1972 with *Il paese del sesso selvaggio* (*The Man from the Deep River* or *Deep River Savages*), which showed the stabbing and skinning alive of an alligator and the slitting of a goat's throat.<sup>73</sup> Subsequent efforts in the genre that featured real animal death included Lenzi's *Mangiati vivi* (*Eaten Alive!*, 1980) and *Cannibal ferox* (1981); Joe D'Amato's *Emanuelle e gli ultimi cannibali* (*Emanuelle and the Last Cannibals*, 1977); Sergio Martino's *La montagna del dio cannibale* (*Mountain of the Cannibal God*

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<sup>71</sup> Ibid, 174-175, 177.

<sup>72</sup> Mark Goodall, *Sweet and Savage: The World Through the Shockumentary Film Lens* (London: Headpress, 2006), 111-122.

<sup>73</sup> David Kerekes and David Slater, *See No Evil: Banned Films and Video Controversy* (Manchester: Critical Vision, 2001), 127.



and *Prisoner of the Cannibal God*, 1978); and most important, two films by Ruggero Deodato, *Ultimo mondo cannibale* (*Jungle Holocaust* or *Last Cannibal World*, 1977) and *Cannibal Holocaust* (1979). *Cannibal Holocaust* became one of the most controversial films in history, earned strong rental and sales on VHS, and was one of three films that led to the passage in 1984 of the UK's Video Recordings Act, which applied to VHS the content regulations that had long applied to films released in theaters. *Cannibal Holocaust* featured several scenes of animal killing, including, most infamously, the decapitation of a live turtle. *Wired* magazine counted it among the twenty-five best horror films of all time, and it remains available in a variety of edited and unedited versions. Most edited versions eliminate the scenes of animal cruelty, including the only version legally available in the UK. The U.S. DVD offers an "animal cruelty free" viewing option in the title menu.<sup>74</sup>

Italians produced the vast majority of cannibal and mondo films, but mondo films in the United States were not exclusively an import business. American filmmakers could slaughter animals for the purposes of shock, bad taste, and entertainment, too, and did. Mondo films made by U.S. filmmakers included *Kwaheri: Vanishing Africa* (1964) and *Brutes and Savages* (1978), a notoriously brutal film that showed staged human death and real animal slaughter under the guise of South American ritual, including a sacrifice to the "Sun God" that involved cutting out the heart of a live llama.<sup>75</sup> And it was the U.S. that produced in the late 1970s and early 1980s a series of mondo films that would attract the most mainstream attention and revulsion since *Mondo Cane*: the particularly sadistic *Faces of Death* series. A perhaps inevitable terminus for the mondo genre, it comprised a

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<sup>74</sup> Andrew DeVos, "The More You Rape Their Senses, the Happier They Are: A History of *Cannibal Holocaust*," in Robert G. Weiner and John Cline, *Cinema Inferno: Celluloid Explosions from the Cultural Margins* (Lanham, MD: Scarecrow Press, 2010), fn 12, p. 97; "25 Best Horror Films of All Times," *Wired*, October 28, 2010, <http://www.wired.com/underwire/2010/10/25-best-horror-films/?pid=1623> (accessed May 23, 2012); Kerekes and Slater, *Killing for Culture*, 64-69; Kerekes and Slater, *See No Evil*, 27, 50, 113; Kay Dickinson, "Troubling Synthesis: The Horrific Sights and Incompatible Sounds of Video Nasties," in Jeffrey Sconce, ed. *Sleaze Artists: Cinema at the Margins of Taste, Style, and Politics* (Durham, N.C.: Duke University Press, 2007); Chapter 6 on *Cannibal Holocaust*, "Exophagy and Exchange—Giving and Taking in the Green Inferno," in Mikita Brottman, *Offensive Films*.

<sup>75</sup> Kerekes and Slater, *Killing for Culture*, 183-184.

succession of unrelated scenes of violence and death, including many real animal killings. (*Faces of Death* fared poorly in theaters but found enormous success on VHS in the United States.)<sup>76</sup> *Cannibal Holocaust* also had American roots. Deodato was Italian, but many of the actors in the film were American, half of the film was set in New York, and the entire film was in English. Whether produced by Italians or Americans, mondo and cannibal films played in the 1960s and 1970s on the arthouse, grindhouse, and exploitation circuits in places like Times Square, where moviegoers could take in these films alongside other emergent paracinematic genres like pornography, biker movies, and other films that pushed the boundaries of taste within the evolving legal and industry structures of movie-making and exhibiting. Wherever mondo and cannibal films showed, scenes of animal death, mutilation, and violence filled the screen.

Animal cruelty must therefore be considered a key expressive element of this film history: a genre-defining element of mondo and cannibal films at a moment when transgressive cinema was developing in the United States. John Waters, the icon of transgressive cinema and director of one of the most important cult classics in American film, *Pink Flamingos* (1972), announced the immediate influence of mondo when he released his first feature-length film in 1969. It was called *Mondo Trasho*, and the opening scene featured a hooded man beheading chickens on a chopping block.<sup>77</sup> “If someone vomits watching one my films,” John Waters wrote in his 1981 memoir, *Shock Value*, “it’s like getting a standing ovation.”<sup>78</sup> For mondo and cannibal films, as for other transgressive films during this period, shock was an essential element, producing the sort of mentally and physically disturbing cinematic experience that Brottman called *cinema vomitif* and that Vogel believed was uniquely produced by the exhibition of the “ultimate secret”: real death. The purpose

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<sup>76</sup> Ibid, 146.

<sup>77</sup> Kerekes and Slater, *Killing for Culture*, 109.

<sup>78</sup> John Waters, *Shock Value: A Tasteful Book about Bad Taste* (New York: Thunder’s Mouth, 1981), 2, 8-9.

of these films was to shock, to destabilize social norms and expectations, to challenge ideas about what should be shown or said in public, and real animal death was part of that endeavor. Those images implicitly asked viewers consider whether killing an animal on screen could say something, could communicate something, could mean something—whether it could, in short, pass precisely the litmus test the Congress would establish in 1999 when it gave animal advocates what they had long demanded—a federal ban on depictions of animal cruelty except for those with serious artistic, educational, historic, or scientific value...

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When films such as *Mondo Cane* or *Cannibal Holocaust* showed in American theaters, the simple appearance of such images of animal suffering and death was remarkable, not only because animal advocates had worked for decades to purge scenes like them from the screen, but also because humane reformers had helped transform American culture writ large. These images were so shocking, disturbing, and tasteless in part because the sentimental ethic of kindness toward animals had become the dominant ethic of human-animal relations. Americans were becoming less likely to see youthful cruelty as a youthful indiscretion and more as a serious behavioral problem. They were less likely to think of cockfighting as a sport than as a form of cruel entertainment. They were less likely to think of food animals as meat machines than as sentient beings that deserved to die with minimal suffering. There were many reasons: the growth of the middle-class, which had been where the ethic took strongest root, historically; the rise of suburbs, single-family home ownership, and a domestic culture focused on the family unit, which increasingly included a pet; a public sphere that included more and more women, who had also been historic drivers of social reform, including humane reform; and rights struggles for African Americans, women, the LGBT community, American Indians, and others, which encouraged identification with oppressed groups. Cultural transformations paralleled legal ones. Animals were increasingly afforded legal protections, whether

in the form of state anti-cruelty laws or in the form of many new federal laws written during this period, such as the Humane Slaughter Act (1958), the Animal Welfare Act (1966), the Fur Seal Act (1966), the Marine Mammal Protection Act (1972), the Endangered Species Act (1973), and the Fish and Wildlife Conservation Act (1980). When animal advocates lost the regulatory power they'd had under the Production Code and films such as *Mondo Cane* and *Africa addio* splashed bloody depictions of animal suffering and death across American motion picture screens, it was, to use a sports metaphor, against the run of play.

By 1970, AHA began adapting to the evolving legal and media landscape by publicizing its own film ratings—unacceptable for films in which animals had been harmed, and acceptable for films that had been filmed in accordance with the animal-related standards previously set by the Production Code, which, by that time, had been abandoned. Among the first handful of films to receive an “unacceptable” rating was *Mondo Cane*. Throughout the 1970s, the AHA added several mondo and cannibal films to its “unacceptables” list, which it distributed widely to newspapers and advocacy groups, and published its magazine. In June of 1973, *Mondo Cane* was joined on the list by Umberto Lenzi's *Il paese del sesso selvaggio* (1972), the first film in Lenzi's influential cannibal trilogy.<sup>79</sup> The next year, the AHA added the American-made mondo film, *Kwaheri: Vanishing Africa* (1964). The AHA offered special condemnation for three mondo and cannibal films, in particular: *Magia nuda* (1975), by the Castiglioni brothers; *Ultimo grida dalla savana* (1974); and Ruggero Deodato's *Ultimo mondo cannibale* (1978), his first cannibal film before *Cannibal Holocaust*. Not only did the AHA rate these films “unacceptable,” it published detailed descriptions of the animal abuses shown on-screen. Joseph Hilbert, who succeeded Melniker as director of the AHA Western Regional Office, called *Magia nuda*, “positively the most repulsive, revolting, disgusting film I've ever seen.” The AHA's recently renamed magazine, *American Humane*, described the film this way: “In gory detail, the

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<sup>79</sup> “Film Classifications,” *National Humane Review*, vol. 61, no. 6 (June 1973), 23.

film shows natives killing two water buffalo, a giraffe and an elephant with their spears... There are several other detailed segments on animal butchery.”<sup>80</sup> Of *Ultimo grida dalla savana*, the magazine reported that the film was “disturbing, disgusting, and degenerate.” It listed the many scenes of animal death: “Six elephants are speared to death. Birds are killed in midair by falcons. A cheetah chases and kills an ostrich. Dogs are shown disemboweled after a chase with a wild boar. In a scene where aborigines spear kangaroos, the animals are shown running with spears.” *American Humane* added, as so many advertisements for mondo and cannibal films had promised: “All scenes are real, no simulation.”<sup>81</sup> A decade later, *American Humane* described the decades of the 1960s and 1970s as a time for the proliferation of “low-budget films that depended on liberal doses of blood and gore for box office appeal.”<sup>82</sup> Mondo and cannibal films were the obvious offenders.

The AHA warned that the depictions of animal cruelty in mondo and cannibal films were part of broader industry trends. Harold Melniker, director of the AHA’s Western Regional Office in Hollywood when the ratings system was instituted, identified the rise of independent and foreign films, and the diffuse network of film distribution, as key problems for animals in motion pictures. “Many of today’s films are made overseas by American companies or foreign producers,” he wrote in an editorial for the *National Humane Review*. “Independent producers in the United States frequently disregard customs and mores by creating pictures with extremes in theme and action. It seems as though we have, as a nation, entered an era of permissiveness. In all phases of life, individuals are making their own rules and anything goes!”<sup>83</sup> Mondo and cannibal films were visible and brutal examples, but many other productions harmed animals on foreign locations where AHA

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<sup>80</sup> “Mondo Magic,” *American Humane*, vol. 65, no. 1 (January 1977), 48.

<sup>81</sup> “Savage Man, Savage Beast,” *American Humane*, vol. 66, no. 7 (July 1978), 28.

<sup>82</sup> “Humane Anima Treatment’s Coming Back to the Movies?” *American Humane*, vol. 66, no. 4 (April 1978), 17.

<sup>83</sup> Harold Melniker, “AHA Copes with Changing Attitudes toward Animal Exploitation in the Movies,” *National Humane Review*, vol. 60, no. 1 (January-February 1972), 10.

representatives could not reach. Among the earliest films rated “unacceptable,” in addition to the Italian-made *Mondo Cane*, were American-made westerns shot in Spain, *El Condor* (1970) and *Valdez is Coming* (1971); *Macho Callahan* (1970), an American-Mexican collaboration filmed in Mexico; and *Patton* (1970), winner of seven Academy Awards, including Best Picture, which was shot primarily in Spain, where two donkeys were killed during a bridge-crossing sequence.<sup>84</sup> Cleveland Amory, the head of Fund for Animals, noted the complications of monitoring films in an era of global and decentralized filmmaking: “Once a very few studios made almost all the films and policing was possible,” he wrote in the *Boston Globe*. “Today, with films made by independents all over the world it is just the opposite.”<sup>85</sup> A writer for the *National Humane Review* saw in the rise of foreigners and independents a return to the period before the Code was enacted: “the situation surrounding foreign productions is potentially so dangerous that we find ourselves on the precipice of against witnessing the horrors of the late thirties.”<sup>86</sup>

While the Code era might be considered by some an embarrassing time in the history of American cinema, the AHA and animal advocates remembered those years fondly.<sup>87</sup> Hollywood in the 1970s looked a great deal like the 1930s from the perspective of animal advocates. The return of the Running W., banned in Hollywood since 1940, was the most visible and frequent abuse in the post-Code era. Makers of war films and westerns still wanted to film horses falling down in battles and chases, and without AHA involvement, there was little incentive to maintain humane standards when it was quicker and cheaper to tie a wire to a horse’s legs. When the Running W. was used on horses for a Universal Pictures film starring Burt Lancaster, *Ulyana’s Raid* (1972), the *National*

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<sup>84</sup> “Humane Association Lists 3 Films Unacceptable,” *Los Angeles Times*, November 2, 1970; “Humane ‘X’ Ratings,” *Washington Post*, October 31, 1970.

<sup>85</sup> Cleveland Amory, “Films Unkind to Animals,” *Boston Globe*, July 6, 1975.

<sup>86</sup> Dan Cotterman, “Murder at the Running W,” *National Humane Review*, vol. 61, no. 9 (September 1973), 7.

<sup>87</sup> T.E.D. Klein, “They Kill Animals and They Call it Art,” *New York Times*, January 13, 1974.

*Humane Review* announced sadly, “For the first time in more than three decades, an American film company has deliberately misused animals in the production of a motion picture shot on location in the United States. Filming took place in Arizona and Nevada.”<sup>88</sup> Of the nearly eighty films rated unacceptable during the 1970s, dozens of them were added to the list for using the Running W.

There were scores of other offenses, too, many of them rivaling mondo in their gruesomeness. Dennis Hopper cut off a chicken’s head in *Kid Blue* (1973). For *Pat Garrett and Billy the Kid* (1973), director Sam Peckinpah shot a scene in which chickens were buried in dirt up to their necks and then used for target practice.<sup>89</sup> Real cockfights appeared in *The Legend of Nigger Charlie* (1972), *The Day of the Locust* (1975), and *Cockfighter* (a.k.a. *Born to Kill*) (1974).<sup>90</sup> In *The Missouri Breaks* (1976), a horse drowned during a river-crossing scene and Marlon Brando killed a rabbit on-screen.<sup>91</sup> *Apocalypse Now* (1979) famously featured a scene in which a bull was ritualistically decapitated (perhaps a reenactment of the Gurhkan warrior ritual in *Mondo Cane*). *Heaven’s Gate* (1980)—a film that rallied animal advocates in post-Code era in the way *Jesse James* had in pre-Code era—had multiple violations: a horse was killed by explosives; animals were bled for “realistic” blood rather than stage blood; and horses were tripped with the Running W. Acts such as these and their exhibition on American screens led the AHA to warn: “It’s almost 1939 again and time for the public’s distant murmur to rise in tumult against what is happening... It’s just as heartless and appalling now as it was over thirty years ago.”<sup>92</sup>

Without any authority to monitor animals on film sets, except in cases where producers and

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<sup>88</sup> “Burt Lancaster Film Rated Unacceptable by AHA,” *National Humane Review*, vol. 60, no. 5 (September 1972), 3.

<sup>89</sup> Klein, “They Kill Animals and They Call it Art.”

<sup>90</sup> Ibid; Gregg Kilday, “Watchdog Over Cruelty to Film Animals,” *Los Angeles Times*, June 1, 1975; T.E.D. Klein, “Animals in Movies—the Abuse Gets Worse,” *New York Times*, June 8, 1975.

<sup>91</sup> “AHA Rates Three New Films; ‘Missouri Breaks’ Unacceptable,” *National Humane Review*, vol. 64, no. 5 (May 1976), 4.

<sup>92</sup> Cotterman, “Murder at the Running W,” 11.

directors voluntarily abided by the old rules, the AHA was left to use the same tools of advocacy that it had used in the 1930s to exert pressure on the industry: creating negative press around films; petitioning the industry to establish new regulations; and supporting proposed changes to state and federal law. The very invention of the “unacceptables” list was a throwback to a time when the AHA actively solicited and published intelligence from its members about which films depicted acts of animal cruelty. “Spread the word on these classifications,” Melnick encouraged readers of the *National Humane Review*. “Our goal is to inform the public, in the hopes that an informed public will not buy tickets.”<sup>93</sup> Many people wrote to the AHA to express their commitment to boycotting “unacceptable” films and to raise awareness in their communities. A reader from New Jersey, for example, mailed to the AHA a copy of the letter she’d been sending to every production company that released an “unacceptable” film. It read: “I will not—and I will encourage my friends and neighbors to do likewise—attend any showing of films which are rated Unacceptable by AHA.”<sup>94</sup> Another reader wrote of the “unacceptables” list: “My friends and I are drawing up petitions, writing letters, and doing other things to help stop animal abuse.”<sup>95</sup> The AHA encouraged these actions, and offered the following advice: “Review readers are urged to boycott all films classified Unacceptable in AHA’s monthly list. Protests may be directed to the Motion Picture Association, 522 Fifth Avenue, New York, NY, or to individual producers.”<sup>96</sup>

While urging grassroots protest among supporters, the AHA also worked to publicize the “unacceptables” in the mainstream press. Kevin Thomas, a film critic for the *Los Angeles Times*, noted in his otherwise standard reviews of *Ulzana’s Raid* and *Posse* (1975), that in each case, “it

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<sup>93</sup> Melniker, “AHA Copes with Changing Attitudes...,” 11.

<sup>94</sup> “Movie-Goer Protests,” *National Humane Review*, vol. 60, no. 6 (October 1972)

<sup>95</sup> “Picket the Unacceptables,” *National Humane Review*, vol. 61, no. 9 (September 1973)

<sup>96</sup> “Murder at the Running W,” *National Humane Review*, vol. 61, no. 10 (October 1973)



should be noted that the American Humane Association condemned the film for its treatment of horses.”<sup>97</sup> The *New York Times*, *Los Angeles Times*, and *Washington Post* all reported on the “unacceptables” list when the AHA first announced it, and beginning in 1975, a series of lengthy articles in the *New York Times*, *Los Angeles Time*, and the *Chicago Tribune* endeavored to raise awareness of abuses in Hollywood and elsewhere. A writer for the *Chicago Tribune* addressed readers: “You know those horrible moments in movies when the horses fall into a pit or somebody pulls off a chicken’s head?

And you gasp, then pacify yourself with the assurance that such cruelty would have to be faked to get past the so-and-so board of animal something-or-other. Well there is no such board. Perhaps everyone else in the country has known this since 1966, but I have gone innocently thru a decade assuming some watchdog agency has its eyeteeth on the movie industry’s treatment of animals.”<sup>98</sup>

The public awareness campaign reached its peak when *Heaven’s Gate* was released in 1980. As the AHA had done in 1939 with *Jesse James*, it used acts of cruelty in *Heaven’s Gate* to rally support. The controversy caught traction when *Parade* published a cover story, “How Hollywood Destroys Animals,” which targeted the film and others on the “unacceptables list.” After the story appeared, the AHA received 25,000 letters of support in which writers pledged to boycott every film on the unacceptables list, leading the organization to declare that there was a “storm” of protest surrounding the film.<sup>99</sup>

While fomenting public pressure, AHA again worked within evolving industry channels to eventually restore its authority over the use of animals in motion pictures. As it had once worked with Hayes, in the 1970s the organization lobbied Jack Valenti, president of the MPAA. Valenti appealed to MPAA members to treat animals humanely and to abide by the rules previously

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<sup>97</sup> Kevin Thomas, “Movies of the Week,” *Los Angeles Times*, January 12, 1975

<sup>98</sup> Linda Winer, “Who’s Minding the Humanity?” *Chicago Tribune*, July 30, 1975.

<sup>99</sup> “AHA Pickets Heaven’s Gate,” *National Animal Protection Newsletter*, vol. 3, no. 2 (Summer 1981), 7; “A ‘Storm’ of Protest,” *National Animal Protection Newsletter*, vol. 3, no. 3 (Fall 1981).

established by the Code.<sup>100</sup> Negotiations between Valenti and representatives of the AHA led to a commitment on Valenti's part that the MPAA's goal was to be able to say of every motion picture: "No animal was cruelly treated or killed in the making of this film"—a statement that would eventually become the AHA's signature seal of approval displayed in the credits of films produced under their oversight.<sup>101</sup> At Valenti's urging, the MPAA board adopted a resolution in 1974 acknowledging "there may have been instances in recent times of what might be deemed cruelty to animals" and committing that its members adhere to "the principle of humane treatment of animals in the production of motion pictures."<sup>102</sup> The MPAA had no power to enforce that commitment—well intentioned though it might have been—and AHA found itself adding dozens of films to "unacceptables" list in the years after the resolution passed. Renewed authority for the AHA would eventually come through action by the Screen Actors Guild, when, in 1980, the Screen Actors Guild/Producers Codified Agreement was ratified with the following language: "American Humane shall be notified of films using animals, receive scripts of the animal action, and shall be allowed across to any and all productions."<sup>103</sup> This agreement re-empowered the AHA and remains in force today.

In the 1920s and 1930s, animal advocates were unconcerned about censorship and free speech because films were not constitutionally protected. But in the 1970s and 1980s, they needed to defend themselves against charges that they were advocating for limiting expression. Jack Valenti, president of the MPAA, announced that ending the Code would "encourage artistic expression by

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<sup>100</sup> Marlene Cimon, "Pets: Treatment of the Have-Nots," *Los Angeles Times*, December 16, 1976.

<sup>101</sup> "Valenti Appeals to Nation's Filmmakers for Humaneness in Movies," *National Humane Review*, vol. 62, no. 4 (April 1974), 3.

<sup>102</sup> "No Animal Was Cruelly Treated or Killed in Making This Film," *National Humane review*, vol. 62, no. 5 (May 1974), 9.

<sup>103</sup> "Hollywood Office Proposal Accepted," *National Animal Protection Newsletter*, vol. 2, no.4 (Winter 1980), 8.

expanding creative freedom.”<sup>104</sup> To animal advocates that expansion of creative freedom meant one thing: “They Kill Animals and They Call it Art”—the title of T.E.D. Klein’s first *New York Times* story about animal abuse in filmmaking. That title was a clear gesture toward the enshrinement of film as a constitutionally protected medium that was more than mere “entertainment,” as the Supreme Court had called it in *Mutual*. This change posed unique problems for animal advocates, for whom animal protection in film had always been tied to instruments of censorship, from local and state censor boards to the Production Code. Whereas many filmmakers considered the Code a restrictive instrument of censorship, it was the main instrument that animal advocates had had to protect animals on film sets. And though governmental censor boards had been stripped of their power, they had once been the most reliable institutions for regulating the exhibition of films that depicted animal cruelty. Advocates, therefore, needed to calibrate their appeals for restored authority over film animals within the context of evolving legal and cultural understandings of art, speech, and censorship.

Leading animal advocates argued that acts of animal cruelty on film sets and depictions of animal cruelty in films were outside the bounds of free speech. Harold Melniker and actress Doris Day, an outspoken animal advocate and member of Actors and Others for Animals, both spoke to this point in the mid-1970s, when the AHA’s public awareness campaign was in full swing. “We’re interested in safety,” Melniker said on behalf of the AHA. “We’re not in the business of trying to frustrate creativity, but freedom of expression doesn’t include freedom to use animals as you please.”<sup>105</sup> In an op-ed appeal that appeared in the *Los Angeles Times* in 1974 and twice in the *Washington Post*, Doris Day described the ways that some directors abused animals, and argued that

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<sup>104</sup> Vincent Canby, “A New Movie Code Ends Some Taboos,” *New York Times*, September 21, 1966; See also, Valenti, “Motion Picture Censorship in the United States Today.”

<sup>105</sup> Kilday, “Watchdog Over Cruelty...,” *Los Angeles Times*

depictions of such abuses had no business being protected by the First Amendment. “This organization cannot condone for any purpose whatsoever—” she wrote on behalf of Actors and Others for Animals, “whether it be for realism, shock value or greed—the killing or harming of innocent creatures on screen or off screen. Film producers who use live chickens for target practice, slit the throats of sheep or use the previously banned wire ‘trip’ to effect a realistic horse fall have gone beyond the bounds of free expression and reached the land of bad taste and true obscenity.”<sup>106</sup>

It was important for people such as Melniker and Day to distinguish between protected speech and unprotected speech because they were demanding more than protections for animals on sets—they were also demanding that depictions of animal cruelty, in cases where sets were not monitored by the AHA, be banned from screens. If the industry would not comply, animal advocates would appeal to the state. Animal advocates had long supported the use of state power against depictions of animal cruelty on film, though the U.S. Supreme Court had rejected the main instruments of that power, state censor boards, as unconstitutional. When animal advocates argued that animal cruelty was outside the bounds of free expression, they were announcing their commitment to those very instruments. In her op-ed, Doris Day encouraged readers to “write to their state representatives demanding that legislation that would prohibit the showing of films in which animals are deliberately killed or harmed for the purpose of making a movie.”<sup>107</sup> Melniker, too, warned, “Animals will continue to suffer injury and death until laws prohibit the exhibition of films made without regard for their safety.”<sup>108</sup> It was perhaps precisely these calls that led Jack Valenti to warn in his memo to filmmakers and producers of possible federal intervention if the industry failed to once again take appropriate self-regulatory measures: “Some in the national

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<sup>106</sup> Doris Day, “Letters: Cruelty to Animals,” *Los Angeles Times*, March 31, 1974; “Animal Cruelty in Films,” *Washington Post*, April 1 and 8, 1974.

<sup>107</sup> Ibid.

<sup>108</sup> Mimi Avins, “Guarding Against Abuse to Animal Actors,” *National Humane Review*, vol. 64, no. 4 (April 1976), 12.

humane groups,” he wrote, “are planning to ask Congress in Washington and legislatures in the states to adopt laws to punish cruelty to animals in films.”<sup>109</sup> Self-policing, though, would perhaps not be enough to satisfy those humane groups. Even if the industry re-authorized the AHA to review scripts and monitor sets, animal advocates wanted stricter control over depictions on film as well as acts during production.

To that end, the AHA lent its support in the late 1970s to two California bills, SB 778 and SB 490, which proposed to empower the State of California to stop distribution of films in which animals were killed or harmed—bills that encountered opposition on First Amendment grounds. Introduced in 1976, SB 778 would have required a film’s producer to sign an affidavit certifying that no animals were harmed or killed in the making of the film. The State of California could halt distribution or exhibition of films that depicted animal cruelty and the exhibitor would face misdemeanor criminal charges. According to the AHA, the legislation was necessary due to “an increased disregard for animals life in filmmaking and the elimination in 1966 of the Motion Picture Production Code which designated AHA as the organization responsible for supervising animal action during films.”<sup>110</sup>

The ACLU came out strongly against the bill, arguing that it violated the First Amendment, and continued to lobby against a revised version put forth in 1978, SB 490. In the revised and less far-reaching bill, the exhibition of a film depicting animal cruelty would be considered a “public nuisance,” and therefore subject to injunctive action by the state. The bill cleared the state senate by 31-3 margin and was signed into law by Governor Jerry Brown. According to the bill’s sponsor, David A. Roberti, the bill utilized “the economic power of California’s box office to deter motion

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<sup>109</sup> Marlene Cimonis, “Pets: Treatment of the Have-Nots,” *Los Angeles Times*, December 16, 1976.

<sup>110</sup> “Hearing Slated for California Bill to Ban Animal Killing for Motion Picture, TV Films,” *National Humane Review*, vol. 64, no. 1 (January 1976), 5.

picture companies from trying to cut costs at the expense of a living creature.” To the ACLU, though, the bill did more than provide financial disincentives—it violated the speech rights of filmmakers by empowering the state to limit exhibition of films based on content. “We’re against it,” said Mark Waldman of the ACLU of southern California when SB 490 passed. “We’re convinced that it flies in the face of First Amendment free-expression rights, and we think it will be overturned by a court.”<sup>111</sup>

The support that animal advocates offered for California bills SB 778 and SB 490 was portentous. Calling for renewed authority for the AHA to monitor sets was one thing; it was quite another to voice support for state bans on depictions of animal cruelty after the U.S. Supreme Court had ruled that films were considered constitutionally protected speech. Those rulings had dismantled municipal and state censor boards. SB778 and SB490 proposed to empower the State of California to serve a similar function: to cease distribution of a film based on its content, which was appropriate, in their logic, because depictions of animal cruelty should be denied First Amendment protections. In 1982, the U.S. Supreme Court would determine that child pornography was constitutionally unprotected, illegal speech. In the same period, animal advocates asked that depictions of animal cruelty, which, like child pornography, were similarly depictions of a criminal act done to a voiceless and defenseless being, should be similarly denied constitutional protection. They would not get their wish during this period of advocacy surrounding motion pictures. But it was a portentous argument, one that would be revisited two decades later.

Beginning in 1980 with the signing of the SAG-Producers agreement, the AHA went about rebuilding its industry-monitoring apparatus, which included the seal-of-approval so familiar today, “No animals were harmed in the making of this motion picture.” That apparatus, now known as the

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<sup>111</sup> “Roberti Bill Clears California Senate,” *American Humane*, vol. 66, no. 2 (February 1978); Ellen Farley, “California Senate Bill: Saving Animals from Film Cruelty,” *Los Angeles Times*, April 13, 1978; “California Governor Signs Roberti Bill,” *American Humane*, vol. 66, no. 12 (December 1978), 3.

AHA Film and TV Unit, continues to function today. This issue of animal cruelty, depictions, and free expression never disappeared, though. It reappeared two decades later, in the late 1990s, and the offending depictions were not exactly motion pictures or collections of violent imagery distributed on VHS—they were scenes of animal death and cruelty found in a variety of video content available on the Internet. They were dogfight videos and cockfight videos, and, strangely, a niche pornographic genre known as the “crush film” that would cause Congress to create the first new category of unprotected speech since the Supreme Court outlawed child pornography in 1982. This new law, called the Crush Act, created a federal ban on depictions of animal cruelty.

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If animal advocates such as Doris Day and Harold Melniker had gotten their way in the 1970s, films on the “unacceptables” list would never have been shown in the United States, or would have been shown only in edited versions that eliminated depictions of animal cruelty. *Apocalypse Now* would end without a bull being hacked to death with a machete. There would be no bridge crossing in *Patton* and no visual archive of the two donkeys that died in that scene. A horse would not explode in *Heaven’s Gate*. There would be no cockfight in *The Cockfighter*. Films such as *Mondo Cane* and *Cannibal Holocaust*, and dozens of related movies, if they were available at all, would be stripped of every scene of animal death that helped define those films and the transgressive cinemas they helped create. Films designed to shock would be missing what Vogel called the “ultimate secret,” the most taboo of taboos: real death. The situation in the United States would be similar to the one in the UK, where the Cinematograph Films (Animals) Act of 1937 banned depictions of animal cruelty and where the British Board of Film Censorship continues to ensure that films such as those mentioned here appear in edited versions without depictions of real animal cruelty, suffering, or death, unless

the board determines that the death was quick and painless.<sup>112</sup> In the United States, the First Amendment has protected these films from cuts related to depictions of animal cruelty, except in cases where filmmakers or producers made them voluntarily, as ABC did, for example, when it aired *Patton*, minus the bridge crossing scene, in 1972, and as Grindhouse Releasing did in 2005, when its DVD release of *Cannibal Holocaust* included, along with an uncut version, an alternative version that was “animal cruelty free.”<sup>113</sup>

In the 1970s and 1980s, then, even as the AHA worked to reestablish its institutional role in the making of motion pictures and lobbied for state censorship, depictions of animal cruelty remained protected speech, and every film on the AHA’s “unacceptables” list remained available and uncut. Animal cruelty was a crime, no doubt, but banning its depiction on film, a medium protected by the First Amendment, seemed a dangerous overreach. In the 1990s, though, animal advocates discovered a body of films that would test the limits of that protection—films that did not seem to be films in the way the Supreme Court intended, films that depicted acts so obscene, dangerous, and depraved that, if Day and Melniker thought some Westerns were outside the bounds of free expression, then these films were something else entirely. These films were not shot on Hollywood sets, or on the ever-worrisome foreign location; they were shot in bedrooms and hotel rooms and basements. They were not distributed to theaters or video stores; they were distributed by distribution companies that specialized in niche pornography, and in many cases, by individuals through informal networks, first in the classified sections of niche pornographic magazines and then

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<sup>112</sup> For more on animal cruelty and film censorship in England, see Burt, *Animals in Film*. Edits also change over time. The BBFC reviewed *Cannibal Holocaust* in 2001, for example, and required that every scene of animal killing be cut. It reviewed the film again in 2011 and determined that all but one of those scenes could be shown, since the animal killing was found to be sufficiently quick and painless. See the BBFC’s case study of *Cannibal Holocaust*: [http://www.sbbfc.co.uk/CaseStudies/Cannibal\\_Holocaust](http://www.sbbfc.co.uk/CaseStudies/Cannibal_Holocaust); accessed June 18, 2012. The BBFC used the same logic in approving the bull slaughter scene in *Apocalypse Now*: [http://www.sbbfc.co.uk/CaseStudies/Apocalypse\\_Now](http://www.sbbfc.co.uk/CaseStudies/Apocalypse_Now); accessed June 18, 2012. John Waters’s *Pink Flamingos*, similarly, required several cuts, including cuts to a scene in which a chicken is killed during a sex act between two people. In 2008, the BBFC decided that the death was suitable quick to appear uncut: [http://www.sbbfc.co.uk/CaseStudies/Pink\\_Flamings](http://www.sbbfc.co.uk/CaseStudies/Pink_Flamings); accessed June 18, 2012.

<sup>113</sup> “Unacceptable Rating Waived for TV Version of ‘Patton,’” *National Humane Review*, vol. 60, no. 7 (November 1972)



on the Internet. They were not give titles like *Apocalypse Now* or *Mondo Cane* or *Jesse James*; they were *Danielle the Destroyer*, *Debbie the Destructor*, and *Vanessa's Frog Stomp*. They had no plot, no dramatic arc; they were videos of women (mainly), nude or semi-nude, often in high-heels, appearing on-screen with small animals—mice, frogs, guinea pigs, kittens, puppies—and stomping them to death. They were called “crush films,” and when they came to the attention of animal advocates in the late 1990s, they and the controversy sounding them became the unlikely coda to this much longer history of animal death on film.

Advocacy surrounding crush films was quick and successful, achieving within months what many animal advocates had dreamed for decades: a federal ban on depictions of animal cruelty. The Humane Society began monitoring crush films in 1997. Organizers there believed that crush films had been available since the 1950s, but that it was only with the advent of the Internet that the films moved from the classified pages of pornographic magazines to more easily accessible websites, prompting members of humane groups to report the films to law enforcement. By 1999, animal advocates in California were working with the District Attorney's office and the California legislature to investigate crush films. They planned to produce legislation banning their production, dissemination, and possession.

The films, though so niche as to be invisible to anyone besides law enforcement, animal advocates, and fans of the genre, were shocking enough in their content that it was hard to ignore them and harder to defend them. Crush films reanimated traditional humane concerns that some films could actually harm the soul and society. Crush films aroused the social fears I described in chapter one, in which acts of animal cruelty seemed to mark a person as depraved, sociopathic, and likely to be violent toward people. In 1998 police in Long Island raided the home of a man who had been producing crush films. There, they found seventy-one crush films, a fish tank filled with mice

and bloody high heels, as well as Nazi paraphernalia and several semiautomatic weapons.<sup>114</sup> Crush films seemed to be more than just offensive speech in this case; they seemed to be threatening, obscene, and socially damaging. The legal problem with crush films was similar to the legal problem advocates and law enforcement encountered when animals were abused in the making of mainstream motion pictures. The acts depicted in crush films violated state anti-cruelty laws but the depiction of those acts was protected speech, and offenders could only be prosecuted for animal cruelty if they were caught in the act. *Danielle the Destroyer*, for example, showed a woman dancing “atop 40 mice at one time” according to the film’s description—clearly an illegal act, but one that could be punished only as an act, not as a depiction of the act.<sup>115</sup>

Advocates and lawmakers in California therefore appealed to the federal government to make that speech unprotected—to make it a federal crime to “create, sell or possess any ‘depiction’ of live animals being tortured, maimed or killed for purposes of commercial gain from interstate or foreign commerce.” The ban on depictions of animal cruelty would apply to films, images, videos, photographs, and sound recordings, with a recommended punishment of up to five years in prison. That language more or less became the language of the H.R. 1887, the bill introduced in the U.S. House of Representatives that would become the Crush Act. Humane organizations threw their support behind H.R. 1887. Doris Day, as she had done in the past with respect to motion pictures, spoke out in favor of the federal ban on depictions of animal cruelty. “This is something so horrible and despicable that it has to end,” she said. There were very few opponents of the bill in the House of Representatives. It passed in October of 1999 by a vote of 372-42. For nearly a century, animal advocates had sought to protect animals from abuse in the production of films, utilizing whatever

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<sup>114</sup> “Long Island Case Sheds Light on Animal-Mutilation Videos,” *New York Times*, January 15, 2000; “Law Would Ban Interstate Sale of Animal Death Videos,” *Associated Press*, August 23, 1999.

<sup>115</sup> “Law Would Ban Interstate Sale of Animal Death Videos,” *Associated Press*, August 24, 1999. In one case, in 1999, a crush film actress was identified and charged with cruelty to animals. A video of her stomping on rodents was used as evidence.

protections were available, including the possibility of a federal ban on depictions of animal suffering, cruelty, and death. When the Crush Act passed, they achieved precisely that. It was codified as 18 U.S.C. § 48.<sup>116</sup>

California's proposed bans on depictions of animal cruelty attracted criticism on First Amendment grounds in the 1970s, and so, too, did the Crush Act. Critics of the law, who promised a constitutional challenge in federal court, were concerned about the free speech implications of banning depictions, not acts. They were also concerned about what they considered the overbroad nature of the language, which would potentially criminalize depictions of animal suffering and death in visual culture other than crush films.<sup>117</sup> When the Crush Act passed, it included language that was meant to allay fears that it violated the First Amendment. It banned "depictions" of animal suffering and death, broadly speaking, but it included an exemption for depictions that had "serious religious, political, scientific, journalistic, historical, or artistic value." That language was problematic in the sense that "serious value" was a subjective category, something like the nature of "animal cruelty" as a concept: one person's science or art or business could be another person's animal cruelty, and it would be up to judges and juries to decide whether any given depiction was of serious value or not.

President Clinton, who offered his strong support for the legislation, noted the First Amendment implications in a statement issued when he signed the Crush Act into law. "It is important to avoid constitutional challenge to this legislation and to ensure that the Act does not chill protected speech," he announced. To that end, he directed the Justice Department to construe the intent of the law more narrowly than the language actually read: "I will broadly construe the

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<sup>116</sup> Ibid; "Doris Day Animal League Joins Forces with Congressman Elton Gallegly to Crush Animal Cruelty Videos," *Business Wire*, September 30, 1999; "Animal Cruelty Bill Overwhelmingly Passes House," *U.S. Newswire*, October 19, 1999.

<sup>117</sup> "Animal Death Video Trial Ordered," *Associated Press*, August 27, 1999.

Act's exception and will interpret it to require a determination of the value of the depiction as part of a work or communication, taken as a whole. So construed, the Act would prohibit the types of depictions described in the statute's legislative history, of wanton cruelty to animals to appeal to a prurient interest in sex."<sup>118</sup> As a statement of intent, it was, like the verbal commitments of Hays and Valenti, easy to say and hard to do. Clinton's instructions aside, the language of the Crush Act created a broad new category of unprotected speech: depictions of animal cruelty, except for those that could be demonstrated to have "serious value" to science, art, religion, history, etc. With the passage of the Crush Act, advocates were granted what might be considered the ultimate instrument of censorship after the collapse of the Production Code and after the decline of state and municipal censor boards: a federal law ruling that depictions of animal cruelty were illegal, unprotected speech.

The censorship potential was vast. Many different depictions of animal cruelty were suddenly in legal jeopardy. The line between a motion picture and a crush film was fuzzier than it might seem at first glance. Take *Apocalypse Now* for example. Long considered a film of serious artistic value, it would presumably be exempt from the Crush Act. But what if someone wished to argue that the depiction of a bull being slaughtered was not a necessary part of the film's serious artistic value and therefore illegal? And what about mondo and cannibal films? *Mondo Cane* would likely reach the serious artistic value threshold. But what about the more extreme mondo films that were little more than collections of violent images, including depictions of animal death. Would *Faces of Death* be considered "serious religious, political, scientific, journalistic, historical, or artistic value?" Or would it be considered unprotected speech punishable by jail time—speech closer to child pornography than to *Apocalypse Now*?

The first test of the interpretation of the Crush Act happened in 2004, when federal law enforcement arrested a man named Robert J. Stevens, age sixty-four, from Pittsville, VA. It was five

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<sup>118</sup> The White House, Office of the Press Secretary, "Statement by the President," *FDCH Federal Department and Agency Documents*, December 9, 1999; 18 USC § 48.

years after Clinton had promised that the Crush Act would be used only against people who produced, distributed, and possessed films that featured “wanton cruelty to animals to appeal to a prurient interest in sex.” That was not Stevens’s crime. Stevens’s crime was the production and distribution of dogfighting videos through his business, “Dogs of Velvet and Steel.” He was charged with three counts of violating the Crush Act and, after a jury deliberation that lasted just forty-five minutes, was found guilty and sentenced to thirty-seven months in federal prison.

First Amendment issues were at the center of the Stevens trial, as judge and jury were asked to consider whether depictions of animal cruelty captured on film were protected or unprotected speech. Stevens did not deny that he had produced and distributed films of dogfights. What his defense insisted on, though, was that these films were his protected speech; that they fell within the exemptions of the Crush Act; and, moreover, that the Crush Act was being applied in an overbroad manner. “Let me say right now,” Stevens’ public defender, Michael Novaro, stated, “We concede that animals are being injured in these videos.” The serious value of the films—serious value that endowed them with First Amendment protections, that made the films more like *Apocalypse Now* than like *Vanessa’s Frog Stomp*—was that they were historical documents of “old-time dog fights” and educational documents in Stevens’ endeavor “to document his enthusiastic study of the dog breed.” Novaro also called attention to Clinton’s statement about the Crush Act’s language; dogfighting videos did not depict “wanton cruelty to animals designed to appeal to a prurient interest in sex” and should therefore not have been punishable under the Crush Act.

Prosecutors and animal advocates rejected Stevens’s First Amendment defense. The Humane Society announced its support for prosecuting Stevens under the Crush Act. A spokesperson for the organization responded with pleasure to Stevens’s conviction and three-year prison sentence: “We’re thrilled with the sentence because Stevens deserves prison time for profiting from dogfighting.” They also claimed a broader reach for the Crush Act than Clinton had. During

the trial, Assistant U.S. Attorney Stephen Kaufman defended the use of the Crush Act by comparing the illegalization of depictions of animal cruelty to the illegalization of child pornography. Both kinds of depictions, Kaufman argued, “foster a demand for images of an illegal activity.” Kaufman’s argument convinced the judge, Alan N. Bloch, who, without any sentencing guidelines specific to the Crush Act, took cues from the sentencing guidelines for child pornography cases.

As the case went to appeal in the 3<sup>rd</sup> Circuit of the U.S. Court of Appeals, the federal government maintained this position, as Stevens’s defense continued to argue that dogfighting videos were protected speech under the Crush Act. Assistant U.S. Attorney Robert Eberhardt argued that the purpose of the Crush Act was to punish people who profited from the commercial sale of depictions of animal cruelty—not just those depictions related to a “prurient interest in sex”—and that the government’s compelling interest in overriding free speech protection was the prevention of animal cruelty. Eberhardt, like Kaufman, likened the illegalization of depictions of animal cruelty to the illegalization of child pornography: “both penalize depictions of illegal conduct, and not illegal conduct itself,” he wrote in his appeals brief in defense of Bloch’s use of child pornography sentencing guidelines; “both attempt to protect vulnerable classes of beings that are unable to adequately protect themselves.”<sup>119</sup> The analogy of child pornography to depictions of

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<sup>119</sup> This narrative comes from press accounts and from government documents: “Virginia Man Indicted for Selling Dog Fighting Videos,” *Associated Press*, March 2, 2004; “Virginia Man First to be Tried Under Federal Animal Cruelty Law for Selling Pit Bull Fight Videos,” *Associated Press*, January 12, 2005; “Ban on Videos of Animal Cruelty Tested; Seller of Dogfighting Tapes on Trial Here in First Case Brought Under 1999 Law,” *Pittsburgh Post-Gazette*, January 12, 2005; “Virginia Man Convicted for Mail-Order Pit Bull Fight Videos,” *Associated Press*, January 14, 2005; “Va. Man Sentenced 37 Months for Dogfighting Videos,” *Associated Press*, April 22, 2005; Federal Judge Sentences Dogfight Video Seller to Jail,” *Pittsburgh Post-Gazette*, April 23, 2005; “Dog Fight Videos Called Free Speech,” *Pittsburgh Post-Gazette*, October 26, 2006. Also see generally for this section: U.S. Senate. Committee on the Judiciary. *Prohibiting Obscene Animals Crush Videos in the Wake of United States v. Stevens* Hearing, September 15, 2012 (Washington, DC: Government Printing Office, 2011); U.S. Congress. Committee on the Judiciary. Subcommittee on Crime, Terrorism, and Homeland Security. *United States v. Stevens: The Supreme Court’s Decision Invalidating the Crush Video Statute* Hearing, May 26, 2010 (Washington, DC: Government Printing Office, 2010); Eugene Volokh, *The First Amendment and Related Statutes: Problems, Cases and Policy Arguments*, 4<sup>th</sup> ed. (New York: Foundation Press, 2011), 157-169; Joseph J. Anclien, “Crush Videos and the Case for Criminalizing Criminal Depictions,” 40 *University of Memphis Law Review* 1 (2009); Emma Ricarte, “Son of Sam and Dog of Sam: Regulating Depictions of Animal Cruelty Through the Use of Criminal Anti-Profit Statutes,” 16 *Animal Law* 171 (2009); Michael Reynolds, “Depictions of the Pig Roast: Restricting Violent Speech Without Burning the House,” 82 *Southern California Law Review* 341 (2009); Elizabeth L. Kinsella, “A Crushing Blow: United States v. Stevens and the

animal cruelty sought to extend the logic of *New York v. Ferber* (1982) in which the Supreme Court determined that “a content-based” restriction on speech could be accepted when it “the evil to be so restricted so overwhelmingly outweighs the expressive interests, if any.”<sup>120</sup> The Crush Act, and the parties who created, utilized, and defended it, asked that animal cruelty be considered enough of an evil and of such little social value that the expressive content was unprotected by the First Amendment.

While the 3<sup>rd</sup> Circuit weighed the Stevens case a second challenge to the Crush Act emerged, this time in Miami, where the owners of a website [www.toughsportslive.com](http://www.toughsportslive.com) filed a complaint against the federal government in which they argued that the First Amendment protected their website and the activities it depicted from the Crush Act. Tough Sports Live broadcast a variety of events over the Internet, including live cockfights from Puerto Rico. Cockfights remained legal in Puerto Rico, but the Crush Act criminalized the depiction of animal cruelty in the United States. Like Stevens, the owners of Tough Sports Live defended the cockfighting broadcasts by arguing that the depictions within the “serious value” exemption to the act and that the act itself was perhaps unconstitutional. Jason Adkins, owner of Advanced Consulting and Marketing, the company that ran Tough Sports Live, made an argument about historical and cultural value when defending the cockfights: “It’s a historic sport; they’ve been practicing it for thousands of years, and I’m just documenting it.” Adkins words borrowed from the cultural defense that had kept Puerto Rican cockfighting legal despite campaigns by stateside animal advocates. It was culture, heritage, and tradition that gave these depictions “serious value.”

Lawyers for Adkins and Advanced Consulting and Marketing used the cultural defense to

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Freedom to Profit from Animal Cruelty,” 43 *University of California, Davis Law Review* 347 (2009); Andrew A. Beerworth, “United States v. Stevens: A Proposal for Criminalizing Crush Videos Under Current Free Speech Doctrine,” 35 *Vermont Law Review* 901 (2010-2011); Matthew Broderick, “Supreme Court Avoids Crushing the First Amendment: Why the Decision in United States v. Stevens was Important for the Preservation of First Amendment,” 88 *Denver University Law Review* 577 (2010-2011); *United States v. Stevens* 559 U.S. \_\_\_, 130 S.Ct. 1577 (2010).

<sup>120</sup> *New York v. Ferber*, 458 U.S. 747 (1982), quoted in Heyman, *Free Speech and Human Dignity*, 90.

claim “serious value” for the cockfighting depictions, while also questioning the constitutional basis of the Crush Act. “We believe firmly that broadcasting and selling legal cockfighting over the Internet is not a crime,” one lawyer said. “As bullfighting is part of Spanish culture and as violent human fighting is part of our culture, cockfighting is part of Puerto Rican culture.” Another lawyer argued the constitutional side: “There is no cockfighting exception to the First Amendment as there is for child pornography or hate speech or violent speech. You can watch bullfighting, hunting, fishing and any number of activities that some would call cruelty to animals on TV. Some would call those sports.” They formalized these arguments in their complaint against the federal government, which included a host of information about the cultural importance of cockfighting and which demanded that the United States District Court in the Southern District of Florida take one of two actions: “Declare that the broadcasting of cockfights staged legally under the laws of the place where they are held is necessarily outside the scope of 18 U.S.C. § 48 because such cockfights and their broadcasts have ‘serious...education, journalistic, historical, or artistic value’ within the meaning of that statute,” OR, “Declare that 18 U.S.C. § 48 is unconstitutional on its face because it abridges the free exercise of the right to freedom of speech, contrary to the First Amendment to the United States Constitution.” They found support for that position from prominent constitutional scholar Eugene Volokh, of UCLA Law School, who put it simply: “I think the statute is unconstitutional. The speech does not fall into any existing First Amendment exception.”

Animal advocates, for their part, continued to reject those arguments and defended the federal statute that had finally rendered depictions of animal cruelty illegal. They also continued to defend the application of the Crush Act to depictions of animal cruelty other than crush films: “There’s nothing artistic about the presentation,” Wayne Pacelle, President of the Humane Society, said of the cockfights on Tough Sports Live. According to Pacelle, the videos failed the “serious value” test, although he didn’t explain what sort of formal or aesthetic elements would have given



them protection: “They’re selling plain old cockfighting videos,” he said.<sup>121</sup>

While lawyers in Miami were arguing that the First Amendment allowed people to broadcast cockfights over the Internet, the 3<sup>rd</sup> Circuit Court of Appeals was preparing to hand down its decision in the Stevens dogfighting case. Eight days after lawyers for Advanced Consulting and Marketing filed their complaint in district court, the 3<sup>rd</sup> Circuit’s thirteen-judge panel ruled in a 10-3 decision that the Crush Act was unconstitutional. In an opinion that the *New York Times* described as a “mini-course in constitutional law,” Judge D. Brooks Smith wrote that the majority was unwilling to create a new category of unprotected speech, the first new category since *New York v. Ferber* had criminalized child pornography twenty-five years earlier. The *Times* asked, “When it comes to the law, is it a stretch to equate gruesome videos of animal cruelty with the gut-wrenching depictions of child pornography?” The court answered decisively: yes. When it came to limiting free speech, there was simply no comparison between the federal government’s compelling interest in protecting children and its interest in protecting animals. “No matter how appealing the cause of animal protection is to our sensibilities,” Judge Smith wrote, “we hesitate—in the First Amendment context—to elevate it to the status of a compelling interest... Preventing cruelty to animals, though an exceedingly worthy goal, simply does not implicate interests of the same magnitude as protecting children from physical and psychological harm.” Acts of animal cruelty warranted “strong legal sanctions,” but the federal government could not criminalize depictions of those acts.<sup>122</sup> Depictions of animal cruelty were protected speech.

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<sup>121</sup> “First Amendment Claim in Cockfight Suit,” *New York Times*, July 11, 2007; “Cockfighting on Web Enters Legal Arena; Broadcaster’s Suit Challenges Anti-Cruelty Law,” *Washington Post*, July 22, 2007; “Complaint for Declaratory and Injunctive Relief,” *Advanced Consulting and Marketing, Inc. v. Alberto Gonzales as Attorney General of the United States*, United States District Court, Southern District of Florida, Case No. 07-21767, filed July 10, 2007. Lawyers for Advanced Consulting and Marketing, Inc. made the complaint available at <http://www.markuslaw.com/pdf/FiledComplaint.pdf>

<sup>122</sup> “Ban on Dog-Fight Videos Rejected: Court Overturns Conviction of Virginia Man Who Sold Videos of Pit Bulls Fighting,” *Richmond Times Dispatch*, July 29, 2008; “Free Speech Restraints; Child Porn Yes, Animal Cruelty No,” *New Jersey Lawyer*, July 28, 2008.

The U.S. Supreme Court would decide whether that was so. Elena Kagan, U.S. Solicitor General under President Obama, petitioned to the Supreme Court to consider the Stevens case, and, on behalf of the federal government, continued to mount a strong defense of the act signed into law a decade earlier by President Clinton. “Like other forms of unprotected speech, such as child pornography,” read the appeals brief filed by Kagan’s office, “depictions of the intentional infliction of suffering on vulnerable creatures play no essential role in the expression of ideas.” That statement was remarkably reminiscent of the statements that Harold Melniker and Doris Day had made in 1970s when they and other animal advocates lobbied for the criminalization of depictions of animal cruelty on film. Now, that argument—that depictions of animal cruelty had no essential role in the expression of ideas—was remobilized by the U.S. Solicitor General’s Office to defend the federal law that had ultimately emerged from decades of advocacy surrounding motion pictures. Stevens’s public defender, Lisa B. Freedland, meanwhile, stuck to the argument made by the 3<sup>rd</sup> Circuit, writing, “While the government may well have a significant interest in combating acts of animal cruelty, it has not established a compelling interest in prohibiting speech—visual or aural depictions—about such conduct.”<sup>123</sup>

Advocacy surrounding animal cruelty on film had, for nearly a century, taken place within a limited set of circles: among animal advocates, filmmakers, state and federal legislators. With the Supreme Court taking up the Crush Act in *United States v. Stevens* (2010), the issue became a much more public one. The editorial staff of the *New York Times*, for example, weighed in, throwing its support behind Stevens and the 3<sup>rd</sup> Circuit, and against Congress, the Solicitor General’s office, and animal advocates. In an editorial titled, “Animal Cruelty and Free Speech,” the paper offered a strong defense of the First Amendment, which “protects even disturbing speech,” and does not

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<sup>123</sup> “Animal Cruelty Law Tests Free Speech,” *New York Times*, January 6, 2009; “Court to Weigh Legality of Animal Abuse Videos,” *Washington Post*, April 21, 2009.

allow for speech to be protected or censored based on its social value. “The government seems to think it is enough that the harm caused by the animal-cruelty depictions outweighs their social value,” the *Times* noted in reference to the Crush Act’s “serious value” exemption, “but the First Amendment does not say that Congress can restrict speech if it fails a balancing test.” On that point, the *Times* joined with Eugene Volokh who said of the “serious value” exemption, “What constitutes serious value is very much in the eye of the beholder.” The *Times* joined the 3<sup>rd</sup> Circuit in recommending rigorous prosecution of *acts* of animal cruelty while protecting *depictions* of those acts, no matter how offensive or grotesque they might be. “All 50 states have laws against animal abuse,” the *Times* observed. “The best way to fight animal cruelty is to enforce these laws more vigorously and to increase the penalties. Anyone with an ounce of decency should be tempted to ban animal-abuse videos, but anyone with an appreciation for the First Amendment understands why we cannot.”<sup>124</sup>

During the oral arguments of *United States v. Stevens* some justices seemed concerned about the breadth of the Crush Act and about its potential to criminalize a whole host of animal-related depictions. Justice Anthony Kennedy questioned whether depictions of hunting were exempted by the “serious value” clause. If so, why? “Some depictions of hunting are pretty gruesome,” he said. Justice Antonin Scalia asked about the inclusion of the word “killed” in the statute. “How do you limit ‘killed?’” he asked. “Kill has one meaning, which is ‘kill!’ ... You don’t have a single case in which an absolutely clear word like ‘kill’ is given a more narrow meaning because of other words that are different from that word.” Justice Sonia Sotomayor asked Neal K. Katyal, a deputy solicitor general, to clarify how the government would parse depictions of animal cruelty into those with “serious value” and those without it—specifically, how one depiction of a dogfight could be

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<sup>124</sup> “Animal Cruelty and Free Speech,” *New York Times*, October 6, 2009; “Animal Cruelty Law Tests Free Speech,” *New York Times*, January 6, 2009.

protected speech and another depiction, such as the ones distributed by Robert Stevens, be criminal. “Could you tell me what the difference is between these videos and David Roma’s documentary on pit bulls?” she asked Katyal, considering that “David Roma’s documentary had much, much more footage of the actual animal cruelty than the films at issue here.” Katyal answered, “the line will sometimes be difficult to draw,” something of a t-ball response for Stevens’ defense lawyer, who said, “There is interpreting and then there is alchemy, and I think this statute requires alchemy.”<sup>125</sup>

The Supreme Court’s ruling, issued in April of 2010, upheld the 3<sup>rd</sup> Circuit’s decision that the Crush Act was unconstitutional. It was more than a half-century since the court had ruled in the *Miracle* case, *Burnstyn v. Wilson*, that state censor boards violated the First Amendment, a decision that withdrew a powerful instrument of censorship from animal advocates seeking to prevent the motion picture industry from abusing animals in the production of films and from exhibiting films in which animals had been abused. That was in 1951. Now, in 2010, the court again rejected the constitutionality of governmental censorship when it came to banning depictions of animal cruelty. Writing for the majority in the 8-1 decision, Chief Justice John Roberts used strong language to criticize the intent and possible effect of the Crush Act. He called the law—which had passed Congress by a vote of 372-42—“startling and dangerous” and a “criminal prohibition of alarming breadth.” The court rejected the analogy to child pornography, which Roberts called a “special case” in which the market for the illegal depictions was “intrinsically related to the underlying abuse.” The court also rejected the argument that lawmakers had preserved First Amendment protections by including the “serious value” exemption, which he noted, was borrowed from *Miller v. California* (1973), which established a serious value exception for obscenity, but that could not “be used as a general precondition to protecting *other* types of speech in the first place.” Roberts returned to the

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<sup>125</sup> “U.S. Supreme Court Justices Debate Dog Fighting, the Definition of ‘Kill’ and the Human Sacrifice Channel,” *Lawyers Weekly*, October 6, 2009; “Justices Range from Dogfights to Bullfights, Cockfights and Human Sacrifice,” *New York Times*, October 7, 2009.

issue of hunting, a practice no less violent than dogfighting and yet accepted as an unimpeachable American cultural tradition. Roberts pointed out that the language of the Crush Act would ban hunting videos and magazines, and that the “serious value” exemption seemed unlikely to apply to those depictions: “Most hunting videos, for example, are not obviously instructional in nature, except in the sense that all life is a lesson.” Only Justice Samuel Alito defended the Crush Act. In his solo dissent, he accepted the analogy to child pornography and the logic of weighing the social value of depictions against the social harm of the underlying acts. “[T]he harm caused by the underlying crimes vastly outweighs any minimal value that the depictions might conceivably be thought to possess,” Alito wrote. His protestations aside, the Crush Act was dead.<sup>126</sup>

Defenders of the Crush Act were outspoken in their opposition to the ruling. The ruling left room for a more narrowly written ban on crush films—a ban that legislators and animal advocates immediately began writing—but animal advocates and legislators who had sponsored the original Crush Act continued to insist that depictions of animal cruelty, as Day and Melniker had insisted in the 1970s, went “beyond the bounds of free expression.” Elton Gallegly (R-CA) reiterated the Link argument that had found such currency during the national campaign for felony-level anticruelty laws while denying the First Amendment argument against the Crush Act. “Violence is not a First Amendment issue,” he said, “it is a law enforcement issue. Ted Bundy and Ted Kaczynski tortured or killed animals before killing people... This law is one step toward ending this cycle of violence.” The American Humane Association, still the organization charged with monitoring the use of animals in motion pictures, released the following statement, which, with the language of “entertainment,” connected a ban on depiction of animal cruelty to the long history of advocacy surrounding animals in the entertainment industry. “Deliberately killing animals for entertainment has nothing to do with freedom of speech,” the AHA insisted. “Americans are within their right to

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<sup>126</sup> “Justices Reject Ban on Depicting Animal Cruelty,” *New York Times*, April 21, 2010; “Free Speech, Dead Animals,” *The Record* (Bergen County, NJ), April 25, 2010; *Miller v. California*, 413 U.S. 15 (1973).

keep animal torture and killing out of the marketplace, and the Supreme Court should have made that priority over the supposed protections of those who take sick pleasure in this material.”<sup>127</sup> That statement was consistent with ones that the AHA had been making for a century. When films were merely entertainment, animal cruelty had no place in them. When films were speech, animal cruelty went beyond the bounds of free expression. Whether the industry or the state or empowered advocates on behalf of either the industry or the state—someone needed to stop abuse and in cases where acts of abuse could not be stopped, someone needed to stop depictions of the abuse from being shown.

There is no end to this history, yet.

As far as the law goes, acts of animal cruelty are illegal in all 50 states and a felony most of them (47 as of this writing), but most depictions of animal cruelty remain protected speech. On December 9, 2010, President Obama signed into law the Animal Crush Video Prohibition Act of 2010. It more narrowly criminalized the creation, sale, and distribution of *obscene* crush films than had the Crush Act. Drafters and supporters of the bill responded to the First Amendment concerns of *Stevens* by arguing that crush films were “obscene” and therefore unprotected. Determining whether a depiction of animal cruelty was obscene would be left to local communities and juries, as stipulated in *Miller v. California* (1973).<sup>128</sup> The bill passed unanimously in the Senate. It remains to be seen whether the judiciary will strike it down as unconstitutional.

Animal cruelty and film remain intimate partners. On the big screen, filmmakers continue to harm animals in the making of films and animal advocates continue to employ the strategies

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<sup>127</sup> “Moran, Gallegly and 51 Others Respond to Supreme Court Ruling on Animal Cruelty,” *Congressional Documents and Publications*, April 22, 2010; “American Humane Association: Cruelty to Animals is NOT Free Speech or Entertainment,” *PR Newswire*, April 21, 2010. See also U.S. Senate, *Prohibiting Obscene Animals Crush Videos in the Wake of United States v. Stevens*, 2011 and Animal Crush Video Prohibition Act (2010), 18 USC §48.

<sup>128</sup> *Miller v. California*, 413 U.S. 15 (1973).

described in this essay to protect those animals from harm during production and to limit the exhibition of depictions of animal cruelty. For his 2005 film about the American South in the 1930s, *Manderlay*, Danish director Lars von Trier insisted that a live donkey be slaughtered on camera. John C. Reilly, an American actor and one of the film's stars, walked off the set and never returned to the production. Von Trier said that his own conscience was at peace with the scene, that the donkey was old, that it was scheduled for slaughter anyway, that it was killed humanely, and that a dummy donkey wouldn't have worked. There were no AHA representatives on set in Sweden and there were no state censor boards in the United States to insist that he remove the scene, but he cut it anyway, claiming the donkey had become a public distraction. A Scottish newspaper asked, "Is it Art or Just Plain Sacrifice?" In 2004, *Los Muertos*, a film by Argentine director, Lisandro Alonso, shocked viewers at the Cannes International Film Festival when the film's protagonist slit the throat of a live goat on camera. A writer for the *Village Voice*, noted, "an animal was very much harmed in the making of this movie," and, in a moment of valuation that smacked of the Crush Act's "serious value" clause, offered this defense of the scene: "[h]aving reckoned my feeling about animal rights against my admiration for Alonso's art over three viewings, I've come to find this no more objectionable than the killing of a rabbit in *The Rules of the Game* (1939), being just as essential to the film's integrity and effect."<sup>129</sup> Animals have been and will continue to be harmed in the making of motion pictures. The AHA's Film and Television Unit continues to monitor sets and raise awareness.

On smaller screens, meanwhile, depictions of animal cruelty abound. On the Internet, you can find depictions of just about anything, of course, and that includes a multitude of depictions of animal cruelty: dogfights, cockfights, hunting films (professional and amateur), and, with the rise of

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<sup>129</sup> "Is it Art or Just Plain Sacrifice," *The Herald* (Glasgow), May 29, 2004; "Von Trier Slashes Film's Donkey-Butchering Scene," *The Globe and Mail* (Canada), March 4, 2005; Nathan Lee, "Got Your Goat," *Village Voice*, March 27, 2007; available at <http://www.villagevoice.com/2007-03-27/film/got-your-goat/>; accessed July 20, 2012).

cell-phone cameras, films of the everyday brutality inflicted by humans on animals—once hidden from view, now captured and disseminated by the convenience of digital technologies. Films such as these will occasionally grab the public’s attention, as crush films did. In 2010, people around the world were appalled at a viral video that depicted a teenage girl throwing six small puppies, one by one, into a river. Police, animal advocates, and web users traced the video and the girl to Bugojna, Bosnia, where she was arrested but not charged. News media from the *Daily Mail* to the *Huffington Post* reported on the video and the investigation.<sup>130</sup> More recently, in 2012, a Philadelphia man was charged with animal cruelty when a video was released of him abusing kittens. “The images caught on the tape were extremely disturbing,” a member of the Pennsylvania SPCA’s Humane Law Enforcement unit reported. “He was swinging the cats by their tails and throwing them around and other acts of cruelty.”<sup>131</sup> People continue to abuse animals, sometimes in front of cameras, and very often those films are uploaded to the Internet. Rarely, those films will become news stories such as these.

Films of girls throwing puppies into rivers and of men juggling cats share something with films like *Manderlay* and *Los muertos*: they are perfectly legal. They are speech under the law. There is no difference among them. One could make a strong case that *Apocalypse Now* has more aesthetic, historical, and cultural value than a film of a dogfight shot using a cell-phone camera, but they are afforded precisely the same protections under the Constitution. *Cannibal Holocaust* and *Faces of Death* are no different from *The Rules of the Game* and *Patton*. Depictions of animal cruelty are protected speech in the United States, no matter the video technology, the film budget, artistic merit, or the

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<sup>130</sup> “Girl in Puppy Throwing Video Found by Bosnian Police,” *Huffington Post*, September 3, 2010 ([http://www.huffingtonpost.com/2010/09/03/puppythrowing-suspect-cau\\_n\\_704994.html](http://www.huffingtonpost.com/2010/09/03/puppythrowing-suspect-cau_n_704994.html); accessed July 30, 2012); “Bosnian Girl Who Threw Litter of Puppies into Fast-Flowing River Will Not Face Animal Cruelty Charges,” *Daily Mail*, October 6, 2010 (<http://www.dailymail.co.uk/news/article-1318109/YouTube-puppy-throwing-Bosnian-girl-face-animal-cruelty-charges.html>; accessed July 30, 2012).

<sup>131</sup> “Yu Zhen Chen of Philadelphia Charged with Animal Cruelty, Allegedly Tossed Kittens,” *Huffington Post*, July 31, 2012 ([http://www.huffingtonpost.com/2012/07/31/yu-zhen-chen-arrested-animal-curelty-kittens\\_n\\_1723669.html](http://www.huffingtonpost.com/2012/07/31/yu-zhen-chen-arrested-animal-curelty-kittens_n_1723669.html); accessed August 1, 2012).



size of the screen.

From Edison's elephant, to the horses of *The Charge of the Light Brigade* and *Jesse James*, to the bulls of *Mondo Cane* and *Apocalypse Now*, to the frogs of *Vanessa's Frog Stomp*—determining how animals ought to be treated in the making of films and figuring whether depictions of those acts should be shown on screens has been a long process of intense advocacy, changing understandings of free speech, and transformation in how films are produced and disseminated. The history of film censorship has been intimately connected to the history of animals on film—each shaped and was shaped by the other, a process that remains ongoing. Countless moviegoers this year and next and perhaps indefinitely will be assured that “No animals were harmed.” But it has been the animals that were harmed that have forced us—in times of change for law, visual entertainment, and ethics—to reckon with the meanings animal cruelty: committing it, showing it, and seeing it.

## EPILOGUE

In the introduction to this dissertation, I described “cruelty to animals” as a two-sided coin. To restate: on one side have been ideas about humans and human nature—about what it means for a person to be cruel or kind to an animal, about how a person who is either cruel or kind might treat other people, about how human-animal relationships might produce human-human relationships. On the other side of the coin have been ideas about animals—about whether they can perceive the world, about whether they can experience emotions like joy and fear, and about whether they feel mere physical pain or experience pain subjectively in the form of suffering. These ideas have very old roots in western intellectual thought and were shaped in new ways by a nineteenth-century sentimental culture that encouraged people to cultivate sympathy and fellow-feeling for the suffering of animals and of other voiceless dependents. Thus was forged the two-sided coin that we call “cruelty to animals,” which became the structuring logic of animal advocacy in the nineteenth century and that would remain the structuring logic of human-animal relations into the twenty-first century. *Behaving Like Animals* has told the story of these old ideas about human and animal natures, cruelty and kindness, suffering and sentience doing ideological, cultural, political, and legal work in a modern age under new regimes of knowledge, technology, activism, and law.

These case studies together reveal a history of intellectual inheritance and adaptation amidst broad cultural, legal, social, technological and scientific change. I’ve argued that the ideas we use to make sense of this new human-animal world are versions of the ideas that men and women in the recent, distant, and very distant pasts used to make sense of theirs—that “cruelty to animals” remains the structuring logic of this cultural act of sense-making. Individually, these case studies insist that the notions of human cruelty and animal suffering embedded in the term “cruelty to animals” are malleable and disputable and that they have been made to reckon with many different

human practices and with the discourses and ideologies that surround those practices. In my introduction I referred to the scales and diversity of animal suffering in modern America and to the particularities within that diversity. We use the structuring logic of cruelty to animals to make sense of a cow receiving vaccinations on a factory farm; a bonobo monkey taken from its mother to study separation anxiety; a cat living in the home of an animal hoarder; a rat caught in a glue trap or a fox caught in a foothold trap; a lion in a zoo or an elephant at a circus; a dog walked on a choke collar or chained in yard; and on and on. Nearly every interaction between a human and an animal creates the opportunity to argue over human and animal natures. And those arguments work out in different ways depending on the animal, the interaction, and a great many other factors. I've used studies of malicious animal abuse, cockfighting, animal slaughtering, and animals on film to show how various contests over cruelty to animals become particular contests over history, knowledge, science, technology, ethics, religious feeling, culture, commerce, the role of the state, and, of course, about what it means to be human and animal. The case studies therefore illuminate the wide-ranging cultural work that "cruelty to animals" has done in the United States since the beginning of the twentieth century.

Even if "cruelty to animals" has proven malleable and disputable in various contests over humane treatment, it's worth reflecting on whether its constituent parts (the two sides of the coin) have changed over time. "Cruelty to animals" might remain a structuring logic, but has its own structural composition changed?

When it comes to animals, broadly speaking, the sentimental ethic of kindness toward animals has become the dominant ethic of human-animal relations, and with it a high value has been placed on human sympathy and caring. There has developed a near consensus view that most animals should be spared needless suffering. Social and cultural transformations facilitated the consensus, as I described in my last chapter: the growth of the middle-class, which had been where the ethic took

strongest root, historically; the rise of suburbs, single-family home ownership, and a domestic culture focused on the family unit, which increasingly included a pet; a public sphere that included more and more women, who had also been historic drivers of social reform, including humane reform; and rights struggles for African Americans, women, the LGBT community, American Indians, and others, which encouraged identification with oppressed groups. Changes in animal advocacy and law emerged alongside these social and cultural transformations. Foundational organizations such as the ASPCA and the Humane Society of America grew in influence, wealth, and membership. Alongside new organizations such as PETA and the many other animal advocacy groups that emerged in the post-civil rights era, they made animal advocacy a near constant feature of American life. Animals were increasingly afforded legal protections, too, whether in the form of state anti-cruelty laws or in the form of many new federal laws written during this period, such as the Humane Slaughter Act (1958), the Animal Welfare Act (1966), the Fur Seal Act (1966), the Marine Mammal Protection Act (1972), the Endangered Species Act (1973), and the Fish and Wildlife Conservation Act (1980).

Of course, animal suffering is not created equal, and debates remain over whether an animal is suffering or whether the suffering is needless. Different contexts and different animals produce different debates, as I've shown throughout this dissertation. Dogs and cats arouse near universal sympathy today. To a lesser extent and depending on ideology, region, and other factors, charismatic species such as whales, dolphins, and a variety of wildlife do as well. Other animals, such as chickens and rodents, have had a harder time arousing human sympathy for their death and suffering. These two species, for example, bear the statistical brunt of industrial suffering and death in the meat industry and in scientific research, and yet Americans have looked on passively—or, most likely, have not noticed—as our representatives in Congress have determined that chickens and rodents are not “animals” as defined by the Humane Slaughter and Animal Welfare Acts. And yet, even these

most uncharismatic species arouse some degree of concern for their suffering in much of American culture. Cage-free eggs are now widely available, and it's clear that national tolerance of industrial slaughter does not translate to tolerance of malicious abuse, such as when workers at a poultry supplier for Kentucky Fried Chicken were videotaped kicking and throwing live chickens. Rats, mice, lizards, frogs, squirrels and many other less charismatic species can arouse sympathy for their suffering under the right conditions. Few people think twice about setting a mouse trap—although the ethic of kindness has led to more humane traps and some hostility toward glue traps—but very few people would stomach, much less sanction films of a mouse crushed beneath the heel of a shoe. So, broadly speaking, Americans have come to expect that all animals deserve some basic level of protection from needless pain, suffering, and neglect. Things could change in the future, depending on what that future looks like.

When it comes to humans—again, broadly speaking—things have become a great deal more complicated. If social, cultural, political, and legal transformations have created more agreement about the treatment of animals, other transformations have made humanity more inscrutable. Human nature, morality, sympathy, and cruelty have become extremely unstable notions in an American age of genome mapping, brain science, cloning, globalization, drone strikes, vast income inequality, neoliberalism, religious fundamentalism and many other things that have made it all but impossible to know what it means to be a human and what it means to be cruel or kind. We live in a world where the lessons of *Black Beauty* seem quaint.

Human-animal relations continue to be structured by the old and adaptable ideas embedded in “cruelty to animals,” but these ideas have adapted with less ease to a changing world of human-human relations. When it comes to our treatment of animals, most Americans do place a high value on kindness, sympathy, and care, and might therefore hold in lower regard people who seem uncaring, unsympathetic, and unkind in their dealings with animals. Some dog lovers might judge the

character of a person who strongly dislikes dogs. (“Never trust someone who doesn’t like dogs,” is a cliché of dating advice, for example.) A vegan might judge the character of a person who claims not to “care” how animals are raised and slaughtered. Many American voters judged the character of presidential candidate Mitt Romney when it was revealed that he took road trips with his family dog, Seamus, kenneled on the roof of their car. It is a testament to the enduring influence of sentimentalism in American culture that a person’s character is still often judged by their sympathies, feelings, and cares for the suffering of others, including animals. Any real value to these judgments is suspect, of course. One of Hitler’s best friend between 1941 and 1945 was a dog named Blondi.

Even if the treatment of animals continues to play a role in judgments of character, the language and logic of cruelty, debasement, and brutality has become mainly metaphorical, in most cases, and literal only in the cases of harms to animals that seem sadistic. As I’ve shown in this dissertation, people have claimed for centuries that a person who is cruel to animals is likely to be cruel to humans. When it comes to animals, a great many things are described as “cruel” but the location of the cruelty is often hard to find and its predictive value for human-human relations even harder. How do we locate cruelty in the meat industry? Is it in the people who raise and slaughter animals? Is it in the people who profit from the slaughter? Is it in the people who eat meat? People have long argued that slaughtering animals and eating animal flesh really were brutalizing things, likely to make a person cruel in his or her dealings with other people. When people call the modern meat industry cruel, they are metaphorically using an old language and logic that once made literal claims about human nature and behavior. The same is true for cockfighting and for the harming of animals on film. In the early twentieth century, reformers and people influenced by them truly believed that people were harmed in some essential way by participating in or watching a cockfight and by seeing depictions of animal suffering on screens. By the turn of the twenty-first century, things were very different. Cockfighting continues to form the basis of cultural judgments (character

judgments generalized for a whole group of people) and animal advocates continue to demand that animals be protected on film sets and that suffering not be depicted. But those impulses are rooted more in the sentimental ideas about character, feeling, and caring described above than in any literal belief that cockfighters and moviegoers undergo an essential, brutalizing transformation. The last place where ideas about human cruelty continue to function in a literal way is in the case of sadistic animal abuse. When prosecutors, law enforcement, animal advocates, and legislators claim that an adolescent who tortures and kills a cat is more likely to graduate to violence against people, they mean it literally. When they claim that a man who harms his girlfriend's dog in an act of intimidation is likely to harm her as well, they mean it literally. When they claim that the people who make and consume crush films evince a kind of cruelty that might make them violent in other ways, they mean it literally. Sadistic abuse is where "cruelty to animals" continues to function in its most classic form.

But most forms of animal suffering and most forms of human cruelty resist such literal understandings of human nature. Most of us do not torture animals, but most of us do eat meat, wear leather, and benefit from scientific research done on animals. How cruel are we? Are we feeling the right things about animals? About each other? Is sympathy a way of feeling or a way of living? How are we supposed to be? What are we? As a structuring logic of human-animal relations, "cruelty to animals" has convinced most of us that animals should not suffer needlessly and that we should do our best to create a world that protects their most basic welfare. "Cruelty to animals" has offered fewer answers about what it means to be a human and about what kind of world to create for ourselves.

## APPENDIX

### SELECTED COCKFIGHTING SOURCES

(Representative examples and annotations)

#### I. Stories of American Cockfighting

“Cock Fighting,” *The Emerald, or, Miscellany of Literature, Containing Sketches of the Manners, Principles and Amusements of the Age* (Boston), vol. 1, no. 14, (January 23, 1808).

“Cock Fighting,” *The Mirror of Taste and Dramatic Censor*, vol. 3, no. 3 (March 1, 1811).

“Variety: Cock Fighting,” *New-York Weekly Museum*, vol. 2, no. 30 (November 27, 1813).

“On the Origins of Cock-Fighting,” *The Boston Weekly Magazine*, vol. 1, no. 19 (February 13, 1817).

“Cock fighting,” *American Turf Register and Sporting Magazine* vol. 1, no. 5 (January 1830).

“On the Origin of Cock-Fighting,” *The Farmer & Gardener, and Live-Stock Breeder and Manager* (Baltimore), vol. 3, no. 50 (April 11, 1837).

“The Origin of Cock-Fighting,” *Southern Planter* (Richmond, VA), vol. 1, no. 4 (May 1841).

“Origin of Cock Fighting,” *Weekly Ohio State Journal*, June 21, 1843.

“The Domestic Fowl,” *Spirit of the Times*, vol. 17. No. 50 (February 5, 1848).

“The Poultry Yard: Varieties of the Domestic Fowl,” *The Cultivator* (Albany, NY), vol. 6, no. 2 (February 1849).

“A Model Cock Fight,” *Detroit Free Press*, December 25, 1852, reprinted in *Boston Herald*, March 8, 1853 and in *Daily Dispatch* (Richmond, VA), April 20, 1853.

“Cock Fighting at Chantilly, France,” *Spirit of the Times*, vol. 25, no. 1 (February 17, 1855).

“Description of a Cock Fight,” *Prairie Farmer*, vol. 16, no. 18 (November 4, 1865)

“Cock Fighting,” *New York Times*, August 30, 1885 [“fashionable in Greece at least 500 years before Christ,” and ancient China and India; Royal Cockpit at Westminster founded by Henry VIII; reprinted from *The Saturday Review* (UK)].

“The Poultry Interest: The Game Fowl,” *Massachusetts Ploughman and New England Journal of Agriculture*, vol. 45, no. 33 (May 15, 1886).

“The Poultry Interest: Cock-Fighting and its Votaries,” *Massachusetts Ploughman and New England Journal of Agriculture*, vol. 47, no. 8 (November 19, 1887).



“Fighting-Cocks in School,” *New York Times*, January 13, 1889, reprinted “Cock Fighting: The Time When Boys Took Their Birds to School,” *San Francisco Chronicle*, February 8, 1889, and a longer article, “Shrove Tuesday: A Day Devoted to Fun and Frolic,” *San Francisco Chronicle*, March 3, 1889 [“Cockfighting has always been a form of diversion which has had many adherents. In these days it is looked upon as cruel, and carried on under the rose, but in the ‘good old times’ no such sentimental scruples were entertained.”]

“Cocking Mains: How They are Brought About and Decided,” *National Police Gazette*, March 9, 1889.

“Cock Fighting: A Story of Interest to Patrons of the Sport,” *National Police Gazette*, March 29, 1890.

“Fighting Chickens: An Old Cock-Put Devotee Tells About,” *Atlanta Constitution*, Jun 1, 1890.

“Chicken Fancier’s Plaint: What an Old Handler Has to Say About His Favorite Sport,” *Washington Post*, November 29, 1891.

“Babies Taught Cock-Fighting,” *Boston Daily Globe*, March 7, 1893.

Ernest Ingersoll, “The Natural History of Cockfighting,” *Frank Leslie’s Popular Monthly*, vol. 39, no. 4 (April 1895).

“Cockfighting is Popular in All Parts of the Country,” *National Police Gazette*, December 22, 1900.

“Game Cocks and Cock-Fighting,” *Outing*, vol. 39, no. 3 (December 1901).

“An Ancient Sport: When Cockfighting was Popular and Patronized by Royalty,” *Los Angeles Times*, August 30, 1905.

“Cock Fighting a Classic—How it Became Popular in this Country,” *Washington Post*, February 9, 1908.

“About Chickens,” *Atlanta Constitution*, September 13, 1912.

“Roosters Used to Fight in Days of Old,” *Chicago Defender*, March 4, 1922.

“Child’s Story of Human Race: Roman Cock Fights,” *Washington Post*, April 11, 1924.

“Uncle Ray’s Corner: Cockfighting,” *Atlanta Constitution*, June 27, 1934.

## II. Cockfighting Results in American Newspapers

“Cock Fight Broken Up in Boston,” *New York Times*, January 28, 1859 [Boston v. New York].

“Great Cock Fight Between Detroit and Toronto—Detroit Victorious,” *Detroit Free Press*, April 30, 1859.

- “Cock Fighting,” *Boston Herald*, February 11, 1860 [New Bedford v. New York].
- “The Great Cock-Fight,” *Detroit Free Press*, March 20, 1861 [Detroit v. Louisville, KY].
- “Cock Fighting in the Metropolis,” *New York Herald*, February 21, 1862.
- “The Great Cock-Fight—A Sad Disappointment,” *Detroit Free Press*, January 28, 1863 [Michigan City versus Detroit].
- “Cock-Fighting on New Years,” *Chicago Tribune*, January 6, 1866 [Brooklyn v. New Jersey; in attendance were visitors from Montreal, Boston, Cincinnati, Philadelphia, Washington D.C., St. Louis, and Chicago]
- “Sporting Echoes,” *The Daily Morning Chronicle* (San Fran, Calif), February 28, 1869. [results of a cockfight in the suburbs of New Jersey].
- “Cock-Fighting: Interesting Scenes on Staten Island,” *Chicago Tribune*, December 25, 1869 [“disgraceful” scene of “disreputable characters; still includes fight details].
- “Cock-Fighting: Stirring Battles Between New Jersey and New York,” *Chicago Tribune*, December 31, 1869 [from *New York Sun*].
- “The Feathered Gamesters: Continuation of the Cock-Fighting Tournament at Michigan City, Ind.” *Chicago Tribune*, February 4, 1870.
- “The Brooklyn Cock Fighters,” *New York Times*, February 18, 1870.
- “Cock Fighting: Chicago Emigrants at Tolleston,” *Chicago Tribune*, March 23, 1871 [fight by fight breakdown].
- “The Cock Pit: San Francisco vs. Vallejo and Benicia,” *San Francisco Chronicle*, December 12, 1871.
- “New-York vs. Troy,” *New York Times*, December 29, 1872.
- “International’ Cock-Fight,” *New-York Tribune*, August 22, 1873.
- “Cock-Fighting,” *New York Times*, March 1, 1874 [Westchester v. Dutchess].
- “Main for \$1,000 between Brooklyn and New-York,” *New York Times*, March 31, 1874 [“Despite the efforts of Mr. Henry Bergh and his corps of officers, cock-fighting still flourishes.”]
- “Cock-Fighting: Main Between Chicago and Louisville for about \$7,000,” *New York Times*, April 9, 1874.
- “Cock-Fighting on Long Island,” *New York Times*, April 9, 1874.
- “Cock-Fighting: The Main Between Chicago and Louisville Abruptly Terminated,” *New York Times*,

April 10, 1874.

“The Pit,” *Chicago Daily Tribune*, April 1, 1875 [account of several fights].

“An Extraordinary Cock-Fight,” *New York Times*, May 2, 1875.

“Sporting: A Cheery Cock-Fight Over in Cicero,” *Chicago Daily Tribune*, February 3, 1876 [fight by fight breakdown].

“Sporting: Cocking,” *Chicago Daily Tribune*, March 1, 1876 [fight by fight].

“Cocking: Excursion to Naperville,” *Chicago Daily Tribune*, March 26, 1876.

“Midnight Cock-Fighting,” *New York Times*, June 10, 1876.

“Other Sports: Cock-Fighting,” *Chicago Daily Tribune*, December 17, 1876.

“Cocking: The Fight at Truetsdell Station,” *Chicago Daily Tribune*, February 8, 1877.

“Cocking: The Hayes an Main,” *Chicago Daily Tribune*, March 4, 1877 [cockfight in Wisc].

“Local Miscellany: Cock-Fighting in Newark,” *New-York Tribune*, December 26, 1877.

“A Dashing Cock Fight: News Which Truly Good People Need Not Read,” *Washington Post*, December 26, 1877 [New York versus New Jersey in East New York].

“Grand Rapids: A Cock Fight,” *Detroit Free Press*, February 20, 1878.

“Breaking Up a Cock Fight,” *New York Times*, March 10, 1878 [still gives details of the fight].

“Sporting Matters: A Cock Fight in Westchester,” *Boston Daily Globe*, December 24, 1879 [New York v. Connecticut].

“The Cockpit,” *Chicago Daily Tribune*, January 23, 1880.

“Local Miscellany: Pistols Drawn at a Cock Fight,” *New-York Tribune*, January 23, 1880 [“There are probably more cock fights in Long Islands City and its vicinity than in any other neighborhood near New-York.”]

“A Cock Fight: The Victory Won by an Imported Japanese Bird,” *San Francisco Chronicle*, February 6, 1880 [fight by fight].

“Westchester Roosters: A Lively Cock-Fight Near White Plains,” *New York Times*, February 11, 1880 [White Plains v. Tarrytown; fight by fight; long article].

“Local Miscellany: Cock Fighting on Long Island,” *New-York Tribune*, March 13, 1880 [Philadelphia v. Long Island City].

“Sportsman’s Niche: A Nevada Cock-Fight,” *San Francisco Chronicle*, March 15, 1880.

“Lynn: Cock-Fighting on the Sly,” *Boston Daily Globe*, July 12, 1880 [Marblehead v. Lynn].

“General Sports: Cock Fighting” *Boston Daily Globe*, November 28, 1880 [New York v. Pennsylvania].

“Cock-Fighting in Westchester: A Battle Between Yonkers and New Rochelle Birds,” *New York Times*, June 4, 1881.

“Cock-Fighting: Ohio vs. Kentucky,” *Chicago Daily Tribune*, January 8, 1881.

“Cock-Fighting,” *Chicago Daily Tribune*, January 26, 1881 [fight in a “little village” five miles from Racine, Wisconsin].

“Sportman’s Niche: Cock-Fighting,” *San Francisco Chronicle*, February 19, 1881 [a “first-class cock-fight for the edification of the Nevada Legislature.”]

“Cock-Fighting,” *Chicago Daily Tribune*, February 20, 1881 [Detroit vs. Jackson, Michigan].

“A Champion Chicken Fight: Cocking-Main Fought in Prince George County with City Birds,” *Washington Post*, May 12, 1881.

“The Cock Pit: Two Chickens Fight for More than an Hour,” *San Francisco Chronicle*, May 29, 1882.

“Big Cock-Fight at Troy, N.Y.,” *Boston Daily Globe*, December 1, 1882 [Albany v. Troy; “the most exciting cock-fight held here for a year was fought”... “The police were successfully eluded.”]

“Cock-Fighting in Westchester,” *New York Times*, December 10, 1882 [White Plains; “The fighting took place in the village Chief of Police’s barn, but he knew nothing about it”; fight by fight].

“Cock-Fighting,” *Chicago Daily Tribune*, December 28, 1882 [West Troy; Troy v. Hudson, five hundred in attendance].

“Cock-Fight Near Albany,” *New York Times*, January 6, 1883.

“Cock-Fighting on Staten Island,” *Chicago Daily Tribune*, January 21, 1883 [Troy v. Long Island].

“Cock-Fighting,” *Chicago Daily Tribune*, January 31, 1883 [Troy v. West Troy, NY].

“Cock-Fighting: Preparations for the Great New Orleans Tournament,” *Chicago Daily Tribune*, February 2, 1883.

“Cock-Fighting: A Series of Interesting Matches at the Interstate Series at New Orleans,” *Chicago Daily Tribune*, February 8, 1883.

“Cock-Fighting,” *Chicago Daily Tribune*, February 24, 1883.

- “Cock-Fight on the Albany Road,” *New York Times*, March 24, 1883.
- “Cock-Fighting Tournament,” *New York Times*, May 21, 1883 [Dallas, TX v. Fort Worth].
- “Cock Fighting at Harvard: Sanguinary Battle in a College Student’s Room,” *Boston Daily Globe*, November 24, 1883 [long account].
- “An Ancient Grudge Settled: The San Jose Cockers Defeat the City Men,” *San Francisco Chronicle*, January 7, 1884.
- “Slugging and Wrestling: Cock-Fighting at Albany,” *Boston Daily Globe*, January 8, 1884 [NY v. Mass].
- “Cock Fights Bright and Early Sunday,” *Boston Daily Globe*, May 20, 1844.
- “Other Sporting News: A Most Enjoyable Cocking Main,” *Boston Daily Globe*, July 6, 1884 [North Reading].
- “Rotterdam Cocks Win,” *New York Times*, December 31, 1885.
- “Breaks and Spurs: The Cock-Fighting Season Opened,” *San Francisco Chronicle*, January 18, 1886.
- “Sporting Matters: A Christmas Cock-Fight,” *Detroit Free Press*, December 26, 1886.
- “Heeled and Spurred: An Exciting Cock-Fight Held at North Beach,” *San Francisco Chronicle*, February 23, 1888.
- “Cock Fight at Berkeley: San Francisco Meets San Jose in Battle Array,” *San Francisco Chronicle*, April 29, 1888.
- “Easting Cocking Main: Whitman Birds Vanquish Boston Beauties,” *Boston Daily Globe*, April 22, 1889 [fight-by-fight results].
- “Berkeley Won: Sunday Sport in a Suburban Barn,” *San Francisco Chronicle*, January 13, 1890 [“The usual Sunday cockfight took place yesterday in a barn on the other side of the bay.” ; fight by fight results].
- “Randolph Cock Fight: South Boston and Easton Birds Fight with Short Heels,” *Boston Daily Globe*, March 24, 1890.
- “Mr. Suit’s Bird Wins: Matt Allen’s Japanese Cock Worsted in a Fiercely-Fought Battle,” *Washington Post*, June 3, 1890 [Long Island City].
- “Boston Defeats Taunton: The Former Wins a Cock Fight, Four Victories to Three,” *Boston Daily Globe*, October 12, 1891 [fight by fight results].
- “Country Boys Won,” *Boston Daily Globe*, May 1, 1893 [“outskirts of Boston”; fight by fight].

“Battles of the Birds: Selected Lot of Sports Witnessed Some Good Cock Fighting Out in the Blue Hills of Milton,” *Boston Daily Globe*, May 31, 1895.

“Victory Won by the Little One,” *Chicago Daily Tribune*, April 11, 1897.

“Won by Chicago Birds: Big Cocking Main Held in Wisconsin Goes to Local Fanciers” *Chicago Daily Tribune*, February 1, 1900.

“A Quiet Sunday in New-England,” *New-York Tribune*, April 9, 1900 [results];

“Braintree’s Cock Fight,” *Boston Daily Globe*, April 20, 1900 [fight by fight results for “one of the biggest cocking mains that has been held in the vicinity of Boston for a long time”].

“Utica Bird Wins \$5,000 for his Backers,” *Washington Post*, December 2, 1900.

“A Cock Fight,” *New-York Tribune*, May 15, 1901 [a photograph, captioned, “Photographed in the heart of the business district of New-York yesterday afternoon.”]

“Big Cocking Main,” *Boston Daily Globe*, February 23, 1902 [results].

“A Cockfight in Chicago,” *Chicago Daily Tribune*, January 4, 1903.

“Cock Fight in North Detroit,” *Detroit Free Press*, January 12, 1903 [results].

“A Recent Coking Main: Jersey Birds Lost in Big Chicken Event in New Haven,” *New York Times*, April 7, 1911 [fight by fight results—“that cockfighting has not died out in this country was very evident.”]

### III. Cockfighting Raids in American Newspapers

“Long Island Officials and Mr. Bergh,” *New York Times*, April 15, 1874 [Bergh’s officers break up cockfight and prosecute those in attendance].

“Sunday Cock-Fighting: An Old Pit Demolished,” *New York Times*, April 20, 1874 [ASPCA officers break up cockfight by a group of “suspicious-looking roughs assembled in an old tumble-down house” near 120<sup>th</sup> Street between 8<sup>th</sup> and 9<sup>th</sup> Avenues].

“Law of Cock-Fighting,” *San Francisco Chronicle*, June 13, 1874 [man let off after contributing \$10 dollars to SPCA].

“A Cock Fight Interrupted,” *San Francisco Chronicle*, May 1, 1875 [police interrupt and attempt to arrest several hundred].

“Work of Mr. Bergh’s Society,” *New York Times*, January 16, 1876 [prosecuted 30 instances of cockfighting; less than prosecutions for working horse violations, but nearly the same as “maliciously killing and mutilating animals.”]

“Criminal: The Police of Philadelphia Make a Raid on a Cockpit,” *Chicago Daily Tribune*, February 9, 1877 [Philadelphia’s SPCA reported to the Mayor about a cockpit in West Philadelphia; sixteen officers were dispatched and in the raid a police officer shot and killed one man].

“New York: A Successful Raid on Cock-Fighters,” *Boston Daily Globe*, March 11, 1878.

“The Last of the Cock-Fighting Case,” *New York Times*, March 31, 1878 [Barney Goodwin prosecuted for cruelty to animals. Bergh present for prosecution. Found not guilty].

“Cock-Fighting Stopped,” *New-York Tribune*, January 12, 1880 [Yonkers].

“Looking for a Cock-Fight,” *Chicago Daily Tribune*, April 3, 1881 [about an amateur detective trying to find and break up a cockfight; total failure].

“Putting Down Cock-Fighting: Arresting the Participants in a Main Near Reading,” *New York Times*, March 9, 1882.

“Cock-Fighters: A West-Side Gang Get Off Very Easily,” *Chicago Daily Tribune*, March 21, 1882.

“Cock-Fighters in Trouble,” *New York Times*, January 11, 1883.

“Cock-Fighters Get Into Trouble,” *Chicago Daily Tribune*, January 12, 1883.

“A Laughable Stampede: How a Cockfight at Saugus was Broken Up,” *Boston Daily Globe*, April 2, 1883.

“A Long Island Cock-Pit Raided,” *New York Times*, May 2, 1884 [Humane society officers at James Kearney’s saloon in Dutch Kills].

“Got Wind of It: A Cocking-Main Which Did Not Come Off in Hamtramck on Sunday,” *Detroit Free Press*, May 20, 1844.

“A Cocking Main Prevented,” *Boston Daily Globe*, January 29, 1886.

“A Raid on Cock Fighters,” *New York Times*, January 3, 1887 [Bridgeport, CT: “Cock fighting, which has long been a favorite pastime in this part of the state, received a grievous set-back early this morning, when police raided a main and turned two score of interested spectators into disgusted prisoners.”]

“Raiding a Cockpit: A Sunday’s Sport Spoiled at Berkeley,” *San Francisco Chronicle*, February 21, 1887.

“Spoiling the Fun: Deputy Sheriff Stop a Cock Fight,” *San Francisco Chronicle*, April 16, 1888.

“An Interrupted Cock Fight,” *Los Angeles Times*, November 29, 1889.

“Twenty Men Arrested at a Cockfight,” *New-York Tribune*, May 27, 1890.

“Officers Stop a Cock-Fight,” *Chicago Daily Tribune*, December 26, 1891.

“Disappointed Sports: A Cock fight Near Berkeley Raided by Officers,” *Los Angeles Times*, February 15, 1892.

“Broke Up The New Orleans Main,” *Chicago Daily Tribune*, December 26, 1892 [the main scheduled to last ten days and given a permit by Mayor Fitzpatrick, broken up by Humane Society or SPCA agents, whose tactics of taking names from spectators, many of whom were from out-of-state, “were too strong even for the sporting blood of the South and Mayor Fitzpatrick’s permit.”]

“Jumped from the Windows: Police Surprise Cock Fighters in the Third Story of a Hotel,” *Atlanta Constitution*, January 2, 1893.

“Sixty Men Placed Under Arrest,” *Chicago Daily Tribune*, January 7, 1894.

“Cock Fight Spectators Punished,” *Washington Post*, April 7, 1894.

“Birds and Beer: Police ‘Pinched’ a Fall River Cock Fight,” *Boston Daily Globe*, April 20, 1894.

“Bog Haul at a Main: Fifty-Nine Spectators of a Cock Fight Nabbed by the Police,” *Chicago Daily Tribune*, January 14, 1895.

“Cannot Stop It: Cock Fighting is All Right in South Carolina,” *Atlanta Constitution*, March 22, 1895 [Governor Evans telegraphed sheriff of Berkeley county demanding that he stop a cockfight there. The sheriff responded that there was no law against it, prompting the attorney general to investigate and find that it was only illegal within three miles of an institution of learning].

“Rounded up 54 Men,” *Boston Daily Globe*, January 4, 1897.

“Seek to Prevent Cock Fight: Humane Society Offers Reward for Information Regarding a Main Scheduled for Jan. 26,” *Chicago Daily Tribune*, Jan 24, 1898 [Illinois Humane Society offered \$25 for information].

“Cock-Fighting Sports: Humane Officer Craig Gives Them Warning,” *Los Angeles Times*, February 8, 1900.

“Officials at a Cockfight,” *National Police Gazette*, January 12, 1901 [Cockfighting illegal in Illinois, but “the law is dead letter at the Illinois capital,” where several city officials attended a recent main].

“Cock Fighting Still Popular: Sport Goes on in South Carolina Despite Governor and Troops,” *Atlanta Constitution*, November 30, 1903.

“Will Prosecute Cock Fight Men,” *Detroit Free Press*, May 7, 1912 [“war against promoters” in Wayne County].

“Prosecutor is Caught in Raid,” *Detroit Free Press*, February 4, 1918 [raid in Ann Arbor].



#### IV. American Press Coverage of Foreign Cockfights—pre-1898

“South American Priests,” *New York Telescope*, vol. 3, no. 39 (February 24, 1827).

“Cuba in 1827,” reprinted from the *New-York Daily Advertiser* in *The New-England Galaxy and United States Literary Advertiser*, vol. 10, no. 502 (May 25, 1827) [“a great love of cock-fighting”].

“Cock-Fighting in Sumatra,” *American Turf Register and Sporting Magazine*, vol. 4, no. 6 (February 1833).

“Manners and Customs,” *The Mirror Monthly Magazine*, vol. 23, no. 691 (November 15, 1834) [cockfighting in Southeast Islands].

“Sporting in the Island of Trinidad,” *New Sporting Magazine* (London) vol. 13, no. 80 (December 1837).

“The Island of Cuba,” *The Monthly Chronicle of Events, Discoveries, Improvements, and Opinions* (Boston) March 1841.

“Mexico as it was, and as it is,” *The Critic* (London), vol. 1, no. 12 (July 1844).

“Letters from Cuba,” *The Knickerbocker; or New York Monthly Magazine* vol. 25, no. 2 (February 1845).

“Churches and Priests in Porto Rico,” *New York Observer and Chronicle*, vol. 24, no. 32 (August 8, 1846).

“Letters from Panama,” *The Daily Picayune*, April 3, 1849.

“From Havana,” *The Charleston Mercury*, July 28, 1849 [“the national pastime of cockfighting”].

“The Cock-Fight,” *Putnam’s Monthly Magazine* vol. 4, no. 11 (September 1854) [American soldiers fighting cocks in Mexico].

“Cuba and the Cubans,” *New York Observer and Chronicle*, vol. 32, no. 39 (September 28, 1854).

L.L. Wyvein, “A Cock-Fight in the Havana,” *The Knickerbocker; or New York Monthly Magazine*, vol. 45, no. 1 (January 1855) [long account of American sailors fighting cocks with Cubans in Havana].

“Famous Cock Fight at Spanish Town, W.I.,” *Spirit of the Times*, vol. 7, no. 3 (March 4, 1857) [account of cockfighting in Spanish Town, Jamaica].

“Fighting the Tiger,” *Flag of Our Union*, vol. 15, no. 16 (April 21, 1860) [about Java].

“Life in Puerto Cabello,” *New York Times*, November 3, 1880 [long section about cockfighting in

Venezuela].

“Cock-Fighting in Cuba,” *Chicago Daily Tribune*, October 10, 1881.

“Cock Fighting in Mexico,” *Boston Daily Globe*, July 14, 1885 [“The only sport really national is the cockfight,” rather than the bullfight, often presumed the national sport.].

“Samoans at Play,” *Detroit Free Press*, October 20, 1889.

“Echoes of a Cuban Trip,” *Atlanta Constitution*, March 8, 1891.

“The People of Nicaragua,” *New York Times*, July 5, 1891.

“In Old Las Palmas: Cock-Fighting is the Great Canary Island ‘Fad,’” *Chicago Daily Tribune*, April 2, 1893 [“were it not for the great popular amusement, cock-fighting, there would be nothing year in and year up to stir up any animation in the people”; it is “the only amusement which arouses the enthusiasm of the natives”; long description of cockfighting training, practice, etc].

“A Sunday Battle: The Mexican Priest Sends His Birds to the Cock Fight,” *New-York Tribune*, July 9, 1893.

“Venezuela’s National Amusement: A Cockpit in Nearly Every Hamlet,” *New-York Tribune*, February 15, 1896.

“Life Among the Chemuros in the Ladrone Islands of the South Pacific Ocean,” *San Francisco Chronicle*, July 26, 1896 [“cock-fighting is their principal pastime.”]

“Granada, Nicaragua,” *New York Times*, August 18, 1896.

“Pet Sport of the Dongs: Tourists Fall Victims to Mexican Sport of Cock-Fighting,” *Chicago Daily Tribune*, January 31, 1897 [“Sport’ is really slaughter... Mexican cock-fighting does not appeal to the American sporting instinct... Even when the fighting is fair and birds of great reputation are brought together the sport has little attraction for any one but a Mexican.”]

“Pastimes of Chinese: Cockfights and Gambling Games The Favorites,” *New-York Tribune*, July 19, 1897.

#### V. Cockfighting in American Travel Writing and Advertising—post-1950

“Havana Holds Charm for American Tourists,” *Los Angeles Times*, April 29, 1951.

“Cuban Holiday,” Advertisement, *Pleasure Tours*, *Chicago Daily Tribune*, May 25, 1951.

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